SALMAN KHURSHID

BEYOND TERRORISM

NEW HOPE FOR KASHMIR

GRAD
DS
485
.K27
K4491
1994

BEYOND TERRORISM

New Hope for Kashmir

BEYOND TERRORISM

NEW HOPE FOR KASHMIR

Salman Khurshid

UBSPD
UBS Publishers' Distributors Ltd.
New Delhi Bombay Bangalore Madras
Calcutta Patna Kanpur London

DS
485
.K27
K4491
1994

UBS Publishers' Distributors Ltd.
5 Ansari Road, New Delhi-110 002
Bombay Bangalore Madras
Calcutta Patna Kanpur London

© Salman Khurshid

First Published 1994
First Reprint 1995

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronically or mechanically, including photocopying, recording or any information storage or retrieval system, without prior permission in writing from the publisher or in accordance with the provisions of the Copyright Act 1957 (as amended). Any person who does any unauthorised act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

ISBN 81-7476-019-9

Cover design & photo : Dushyant Parasher
Inset of cover photo : Kamal Sahai

Designed & Typeset at UBSPD in 11.5 pt. New Baskerville
Printed at Rajkamal Electric Press, Delhi

GL
PL480-SA
9-21-95

To

The Youth of India on Whom
Descends the Mantle of
Secularism

Preface

Much has been written about the dramatic confrontation between India and Pakistan at the United Nations Human Rights Commission meeting at Geneva in early 1994. Like all confrontations between us, this too was not of our seeking. Though much of the sparring was familiar and routine to the seasoned diplomat, a few new themes emerged which deserve some attention both in our country and abroad. Amongst such themes was the reflection of a changing attitude in our country towards public debate and controversies. Transparency, as an inherent attribute of such an attitude, stands out prominently. Similarly, an aggressive assertion of our concepts of nationhood and secularism has become more prominent, perhaps due to the confidence of having faced the most difficult test in recent years. I believe these aspects needed to be documented for the serious observer of contemporary politics as well as for the lay reader who simply wants to keep abreast of developments.

Has terrorism come to stay in India? Is it going to be a permanent feature, especially in Kashmir? I think not. In fact, we are already witnessing the ordinary people's reaction against terrorism, which has turned their lives into a nightmare instead of the glorious dream that had been promised. The terrorists, on the other hand, seemed determined to continue their sinister orgy of violence and murder, using highly sophisticated weapons and the latest lethal gizmos, provided gratuitously by a neighbouring country. Ultimately, it is the will of the people that shall prevail and, I am sure, that the desperate bids of the terrorists to foment fear, chaos and anarchy will be smothered. I would like to look beyond terrorism to a bright, more peaceful and more prosperous future for the presently beleaguered people of Kashmir. This book is my tribute to them.

This volume does not purport to be an exhaustive or even a substantive analysis of either the Kashmir situation or our relationship with Pakistan. Perhaps one day some of the thoughts expressed here will provide the starting point of a more scholarly pursuit. In some chapters I have drawn extensively on the powerful speeches of Dr Manmohan Singh and Shri Atal Behari Vajpayee at the commission and at the Human Rights Conference at Vienna. Similarly, I am indebted to the many contributions made by the members of our delegation at the UNHRC meet at Geneva, notably by Dr Farooq Abdullah, Dr L.M. Singhvi, Justice Sujata Manohar, Shri T.N. Kaul, Shri Mohan Chiragi, Shri B.C. Mishra, Shri M.H. Ansari, Shri Prakash Shah, Shri Vinod Grover, Shri Satish Chandra, Km. Savitri Kunadi, Smt. Neelam Sabharwal, Km. M.

Manimekalai and officials of mission in Geneva. Some of the facts on terrorist attacks and killings have been collected by the tireless desk officers at the Ministry of External Affairs. Altogether I hope that the material in this book will persuade more people in India to think seriously about Kashmir as a problem of each one of us and not only of our brethren living in a distant valley.

There were many silent contributors to our efforts at Geneva. Many of them know the gratitude we owe them. But, ultimately, they did it all for their own motherland. Equally, there are many people who contributed to the preparation and publication of this book. But for Mani Shankar Aiyar, MP, I would not even have thought of putting pen to paper. Those who know Mani can imagine the infectious enthusiasm he exudes. My publisher provided the willing substantiation of Mani's ideas; indeed, gently coaxed me into a commitment which appeared unrealistic looking at my Ministry's calendar of foreign visits. However, against all odds we made it (once again!); with a little help from Shri A. Madhavan of the India International Centre, New Delhi, whose foresight in recording my address proved fortuitous. I am grateful to Aditya Sinha for his invaluable assistance. My Officer on Special Duty Asoke Mukerji very helpfully sanitised the manuscript. Finally, it remains for me to say if we had more time I might have given a better account. But in the world of diplomacy when it is breakfast time at home, somebody somewhere else is already having lunch. If the fare is lacking in ingredients, I am afraid there is just one cook to blame!

Salman Khurshid

Contents

Preface		*vii*
1.	Human Rights and Inhuman Wrongs	1
2.	Indian Democracy: The Cradle of Human Rights	11
3.	A View of the Valley: Brief History of J & K	35
4.	The Terrorists' Hit List	58
5.	The Road to Hazratbal	80
6.	The Advent of a Terrorist	99
7.	The Geneva 'Test'	108
8.	The Road beyond Geneva	127
Appendix 1	Letter of Maharaja Hari Singh to Lord Mountbatten (26 October 1947)	137
Appendix 2	Instrument of Accession of Jammu and Kashmir State	141
Appendix 3	The Simla Agreement (1972)	148
Index		153

1

Human Rights and Inhuman Wrongs

The post-Cold War world has turned from a constant fear of a holocaust to a concern for human rights. Just as the former often turned into paranoia, the latter concern too can easily be turned into a self-serving preoccupation. India supports human rights for what they are, but with a caution that their misuse for ideological purposes can be equally reprehensible as their cynical violation. We do not believe in plagiarised phrases coined in developed countries, or strategically chosen and tactically articulated words meant to preserve the status quo of power. Human rights are part of a sincerely and earnestly felt commitment to good governance. Human

rights, as attributes of constitutional government felt passionately by every public figure as a representative of Indian social ethos, are a guiding star of our democracy.

There is a perception that human rights are about political conflict, between the State and its citizen or between the State and a part of its citizenry that decides to challenge the State, maybe to terrorise it, into changing its system, structure, and political values. But this may be an inadequate and narrow perception conditioned by the experience of a few countries. We need to examine this more closely.

There have been many attempts to understand terrorism over the years. Often it is said that one person's terrorist is another person's national hero. Many freedom movements were labelled as terrorism by imperialists, who colonised a third of the world, and suppressed democratic rights. However, with the passage of time the same forces were universally acknowledged as national heroes. That is true not only about countries that have recently attained independence in Asia or in Africa, but also greatly true about our own experience of the freedom movement.

Two streams of struggle were characteristic of the Indian freedom movement – one stream inspired by Mahatma Gandhi and his philosophy of *ahimsa*, and the other stream inspired by a group of dedicated freedom fighters who believed that *ahimsa* was inadequate and that violence was justified in the just cause of freedom. An intense intellectual debate took place amongst freedom fighters causing acute divisions. The final verdict of our people was in favour of Mahatma Gandhi's philosophy of non-violence. Non-violence became the cornerstone of the

freedom movement and therefore, the cornerstone of the constitutional structure of a modern, democratic and free India. Anybody even remotely familiar with Gandhian thought knows that *satyagraha* is part of a larger philosophical structure which gives to the human being a central place in the scheme of morality. However, the fashionable view of human rights has acquired an overpowering political dimension, as though human rights are essentially about political conflict. Important though that is, human rights must not be limited to the arena of political conflict if we are to draw upon the richness and normative value of human rights for good governance and its concomitant concept of a good and virtuous life.

India has no reason to be self-conscious and to accept that human rights are to be learnt from other societies. Africa, Asia, Latin America, and Europe have all, in their respective ways, delved into their heritage, the philosophical fundamentals of their past, to articulate modern and noble principles of human behaviour. We have ourselves described these as essential principles of humanism and brotherhood, which conceive the whole universe as one large family: *vasudaiva kutumbakkam*. This basic inspiration provides the foundation on which human rights have to be developed in India. That indeed is what we have done, instead of simply borrowing concepts from another society, culture or civilisation. Of course, it is necessary and important that we seek cross-fertilisation of concepts of human rights as they have developed in our society with those developed in other societies. However, this can successfully be done only in a spirit of cooperation and not accusation.

People assume unfairly that perhaps we draw up the bridge of communication and intercourse all too easily if human rights are mentioned. There can be nothing further from the truth. Perhaps in the early years of Independence we were excessively sensitive about criticism. But we now advocate that human rights are integral to the welfare of human beings, for good governance and the good life that all humans aspire to. This is true because of the intrinsic worth and dignity of a human being. But specific conceptions and their cultural dimensions in every society are fundamentally different. It would be unfair and fundamentally against the very concept of human rights to think that concepts developed in one society are in any way instrinsically more justified, or inherently superior to the concepts developed in another society. That is nothing but a sophisticated form of intellectual arrogance which gave birth to the irrational distinctions of colour, race, and religion and traumatised the world. One cannot, as a good liberal, democrat or a good citizen of the world, say that the concepts developed in one society or civilisation are intrinsically more valuable than the concepts developed elsewhere.

Sometimes, variance in concepts or in conceptions of those concepts leads to serious conflict. We encounter such conflict every day, often in the same country. We have seen it of late in Bangladesh in Taslima Nasreen's controversy. We saw it with Salman Rushdie in England and beyond. We have seen it with certain 'primitive' practices and conventions, both religious and social in Africa and parts of North America. Major confrontations have developed in the 'Indian' areas of Central America

and South America. It would take considerable patience and intellectual endeavour to resolve such conflicts. Mere mouthing of human right concerns might not be of much use. It is important to have a spirit of enquiry and of introspection. Our acts and positions must be tested on the yardstick of fundamental principles distilled objectively from time-tested beliefs without subjective aberrations of the immediate situation. In this manner, enlightened leadership can resolve many spurious but dangerous conflicts. Whatever applies to a plural society can equally resolve a conflict between two societies.

In India, generations of Supreme Court judges from Justice Krishna Iyer to Chief Justices P.N. Bhagwati and Ranganath Mishra have developed concepts from the Bench which have cultivated the constitutional text into profound ideas. Human rights textually portrayed as constitutional rights in the Indian Constitution are thus not static. They are entitlements which have grown both through the intervention of the legislature, reflecting the aspirations of the people, and through a more complex process of judicial intervention and interpretation. Judges through their interpretations portray the entire philosophy of the people they represent ultimately in intellectual terms.

In the formative years fundamental rights in India were seen simply as injunctions : "The State shall not interfere with or deprive a citizen of life and liberty without due process of law." Due process as it appeared in the constitutional text itself went through a dramatic, almost revolutionary, transformation through judgements of the Supreme Court.

The concept of 'life and liberty' too evolved in a remarkable way. The guarantee of 'life' became an assurance of life with dignity. Dignity was, in turn, interpreted to be substantive in terms of opportunity to be educated, to earn, to interpret, to be informed, to know. Constitutional rights, as more focussed versions of human rights, can thus show the way to the latter for incremental growth. We cannot say that human rights are frozen at the level of building protective walls. They have other positive attributes which must be discovered in consonance with growing wisdom, accumulating knowledge and expanding experience of mankind. Indeed this is how human rights have grown.

Towards the end of the Second World War when Hiroshima and Nagasaki were devastated by nuclear bombs, the serious question of human rights did not stir the conscience of the United States of America. The Hiroshima and Nagasaki holocaust was seen in the context of a war between good and evil. Nevertheless, when war returned to Asia in Vietnam, American youth questioned the basic premise for involvement in the war. It was no longer enough for the State to claim that the war was in defence of democracy. The United States was answerable to its own citizens about the justice of war. Between the Second World War and the Vietnam war a dramatic change had taken place in the American perception of human rights, their own as well as of other people. Between the Vietnam war and the present day, yet another transformation has taken place. The American administration finds itself constrained to say that it will only be in the rarest case that the American youth and

military might will be used in a war of another country and another people.

Even as conventional war recedes, though very slowly, a new threat has begun to plague our planet – terrorism.

Terrorism has already become a contemporary form of war. The terrorism of yesteryears looks relatively harmless today. The lethal terrorism of today is perhaps only a faint shadow of things to come. There is even the real fear that terrorism of the future could inflict another nuclear holocaust. Terrorists can conceivably get hold of weapons that at the height of the Cold War were fortunately restricted to a few military powers. Time was when the target of terrorists was simply an individual target. Usually, it was directed at a person whose elimination was sought to undermine the system. Contemporary terrorists wage war against entire civilian populations and national institutions. Terrorism has turned into war. As security systems are developed to counter the threat, terrorists have turned to soft targets. Terrorism was always madness; but today it is a madness with a sinister method. There is a military dimension and precision. There is greater access to weapons of mass destruction. There is greater generation of and access to, resources that fuel destructive potential. India has been at the receiving end of terrorism repeatedly. We have suffered disruption of economic and social systems. We have lost two Prime Ministers. Much of the terrorist assault has come from the soil of a neighbouring country.

Yet the question that we have to ask ourselves is how do we show terrorism to be the awful and perverted phenomenon that it is ? We can successfully show the

horror of terrorism by contrasting it with good and just government. If the government is in disrepute, it cannot feel the pulse of its people and does not truly represent the aspirations of its people, it is not possible to claim moral superiority of civil government over anarchy and terrorism. If government itself begins to look like a terrorist movement with attributes of madness, condemning terrorism and resisting it would be difficult. This is an important lesson for every sphere of public life. What are the essentials of rule of law and good governance? What are the essentials of an ordered civilian society? If we take these institutions for granted in our thirst for power, it would become difficult to distinguish the terrorist from the victim. Furthermore, terrorism in modern times can arise from many sources – unprincipled quest for wealth, organised mafia, industrial conglomerates, an irresponsible press, corrupt politicians. Terrorism of an insensitive system is far worse than the terrorism of wayward youth who take up weapons against society. A defective and callous system relentlessly corrodes its peoples' will from within. Terrorists purport to undermine society by striking at its roots.

Having accepted our own responsibility we can move confidently to demand consistent behaviour by others. For instance, the UK has had a decades-old problem of Irish Republican Army (IRA) terrorism. Some years ago serving IRA convicts launched a political campaign of relay hunger strike unto death. The first person to starve himself to death was Bobby Sands, a celebrated IRA activist who was serving a long-term sentence for murder. He died a slow and painful death, with each day graphically documented

on TV. The grim process took over a month. The then UK Prime Minister, Margaret Thatcher, was asked her reaction. She said: "Bobby Sands had an option to live; the person he killed was not given that option." This was the first time that the human rights of victims of terrorism were publicly recognised. Yet there is incredulouness when we point to this in Kashmir. If the world continues to suffer double standards, we will never be able to face the global menace of terrorism.

Finally, the other dimension of human rights needs to be highlighted. As a Member of Parliament representing a constituency in relative proximity of Delhi and therefore not distant from developmental impact, I consider myself responsible for peoples' welfare. I have often said to media persons from the West: "There are some violations in Kashmir. But these are not violations of human rights that the Government of the people of India have chosen to perpetrate. We have an effective and transparent system of justice and administration although not perfect. We strive constantly to overcome the shortcomings. If something goes wrong, we do insist that appropriate sanction be imposed. But please think, a person who has human rights violated in Kashmir by a delinquent police officer is essentially no different from a little girl, dying 300 km away from Delhi at Farukkhabad because we could not get a doctor to her. I do not want that girl to die. I do not want that man's civil rights violated."

We are living in an imperfect world. We must ensure that in showing our concern for the man who has been abused by a policeman, we do not forget the little girl who perished due to the lack of medical attention. A doctor

and the ambulance could not reach her house because there was no road. Both must have their place.

The Farrukkhabad child does not dilute the significance of Kashmir. It is only to establish that one cannot be at the cost of the other. We have paucity of resources, exhaustible energies and indeed limited time. But we must at least aspire to ensure that neither violation takes place – the first, an aberration in an extraordinary situation not of our choosing; the other, an unacceptable shortcoming in the system itself. This is the message that we have given to the international community. Right to life must include the right to development. There is no point in insisting that a policeman must be courteous and lawful and yet expect citizens to go home and sleep on hungry stomachs. Justice demands treatment consonant with human dignity. Rule of law is the loadstone when the citizen encounters a policeman or hunger and disease. The positive element of rights must not be overwhelmed by the negative element of rights. It is important that the National Human Rights Commission of India admonishes us if we *violate* rights. It is equally important that it prevent us from *ignoring* rights. Let us reach food, medicine and education to the children even as we improve the conduct of our policemen.

We cannot and must not escape this challenge to conventional notions. We belive that peace and development must go hand-in-hand. Human rights of protection and human rights of provision must become equal.

2

Indian Democracy: The Cradle of Human Rights

India's evolving philosophy of human rights, based on fundamentals that have matured over the millennia of existence of our civilisation, was concisely articulated by India's delegation at the 50th session of the United Nations Commission on Human Rights that met in February-March 1994 in Geneva. Statements by delegation leader Shri Atal Behari Vajpayee, MP, Finance Minister Dr Manmohan Singh, and myself together presented a comprehesive account of our nation's concerns on the protection of human rights, and the guarantees that exist in our polity to address those concerns. Perhaps it is not coincidental that a full exposition of one of the

cornerstones of our nation's socio-political philosophy should come in a debate that finds its origins in the Kashmir problem, proving that, indeed, Jammu and Kashmir is indeed integral to Indian nationhood.

Dr Manmohan Singh, participating as a distinguished leader, began India's case by stating that the June 1993 World Conference on Human Rights in Vienna, which provided a unique opportunity for review, renewal and reinvigoration of the international community's perception and commitment to human rights, helped in the creation of universally acceptable non-discriminatory norms of human rights. This was of great importance as it recognised that it is necessary to strike a balance between the requirements of political and civil liberties and rights on the one hand, and the fulfilment of socio-economic aspirations of the global community, a majority of whom belong to the developing world, on the other.

In providing a point of departure for future UN activities in the field of human rights, the Vienna document clearly restated some fundamental concepts in the approach to human rights that are considered essential, namely, an endorsement of the principle of universality, objectivity and non-selectivity in consideration of all human rights; the need for promoting human rights in a just and balanced manner; reaffirmation of the principles of national sovereignty, territorial integrity and non-interference; promotion and protection of human rights at national and international levels without any conditions attached; and renewed commitment to the rights of women, children and other vulnerable sections of society.

India's firm commitment to fundamental human rights is deeply rooted in her ancient culture and civilisation. So, as I pointed out in my statement at the Geneva deliberations, while the issue of human rights of late has rightly become the focus of enhanced international concern, it is not new to those of us who belong to ancient cultures rooted in the concept of respect for the human being, bonded in universal brotherhood and natural law as the foundation of the universe.

India's freedom struggle itself was inspired by a high vision of society committed to a fascinating ideal of human rights and human obligations. Mahatma Gandhi showed the beacon of *ahimsa* to the world of how human rights must be achieved without violence and how rights cannot truly exist without corresponding human duties of the highest order.

As Dr Manmohan Singh pointed out, since Independence in 1947, India has sought to institutionalise this commitment by deliberate choice of an open society and a democratic polity based on universal adult suffrage, respect for the dignity of the individual, the rule of law, and a multiparty system. Until recently, there were many who argued that poor countries such as India could not afford the luxury of democracy. The founding fathers of the Republic firmly rejected this notion. India has been firm in the conviction that democracy is the best guarantor of human rights of the people, and that it also provides an optimal political framework for development.

Countries as poor as India require a massive social and economic transformation to conquer the ancient scourges of poverty, ignorance and disease. But in order to be

durable, such basic changes have to be based on the free and willing consent of the people provided by a democracy. Democracy also reinforces the drive for equitable participatory development and fair sharing of the fruits of development. Sustained equitable development, in turn, strengthens democracy by promoting a culture of tolerance and peaceful resolution to social and economic conflicts. India thus sincerely believes that both democracy and development are essential for the sustenance and nurturing of human rights.

Democracy in India is based on the participation of the people and the accountability of elected representatives to the institutions of our democracy and to the people's will. Elected parliamentary institutions and free and fair elections exist at all levels – local, State and Centre. Mechanisms have been built in for peaceful orderly changes of government in response to popular will. These mechanisms have been tested time and again and have proved their effectiveness. An independent judiciary is the custodian of the people's rights and has acted zealously to protect them. A free and vibrant press, strong public opinion, an assertive and active non-governmental organisation (NGO) community, and, above all, a commitment to the rule of law fortify the democratic system and its legal safeguards.

The Constitution of India adopted in 1950 is an eloquent example of India's deep commitment to human rights. It went far ahead of the Universal Declaration of Human Rights, to which India is a signatory, by anticipating the two great covenants. It proclaims the basic human rights and fundamental freedoms and guarantees

their effective enjoyment by all citizens, irrespective of caste, creed, race, religion or sex. Credible legal instrumentalities exist to enforce the fundamental rights guaranteed by the Constitution.

Recognising the existing realities, that social disabilities might impair full enjoyment of these rights by all, our Constitution was deliberately framed to provide positive discrimination and affirmative action in favour of those who could not exercise their human rights unaided. There are constitutional safeguards to ensure effective representation of the socially and economically deprived sections in the legislatures as well as in public services. In furtherance of our commitment to, and respect for, the rights of all sections of our society, we have over the years taken measured steps to create special commissions and institutions to promote greater awareness and safeguard the well-being of, and to ensure justice to, our religious minorities and all the diverse weaker sections of our society. This same spirit guides us today.

Complete equality and respect for persons of all religions are not only enshrined in our Constitution and protected by our democratic institutions, but are also the hallmark of our ethos. The Indian people are heirs to an ancient tradition of tolerance and respect for different religions and faiths. It is for this reason that India is home to so many linguistic and religious groups. India is the birth place of four major religions and is proud to count among its nationals nearly every major religious denomination including their sects and subsects. The Muslim population of India, which was 35 million at the time of Independence in 1947, now exceeds 120 million.

The Constitution of India gives all persons the right to freely profess, practise, and propagate their religion. While the Indian State is secular in character, minorities are entitled to establish and manage their own institutions for religious, charitable and educational purposes. Any section of citizens residing in the territory of India have the right to preserve and promote their distinct laws, and beliefs of different communities are fully guaranteed and protected with a latitude not found even in many other secular constitutions.

India is firmly convinced that it is only in a pluralist order that the diversity of human experience and understanding can be preserved and protected. Speaking from the Indian experience, which encompasses and embodies a rich composite of ethnic, religious, linguistic and cultural diversities, we believe that adherence to the values of human rights is negated by any attempt to impose rigid uniformity.

In this larger framework of the human rights of the society as a whole, Shri Atal Behari Vajpayee elaborated on the personal dignity of a human being, and commenced his intervention by noting that the existence of international standards, meant to ensure that all peoples are treated with dignity and in accordance with acceptable behavioural norms, was essential.

It is regrettable that notwithstanding such standards, incidents of torture and other cruel, inhuman or degrading treatment as well as enforced or involuntary disappearances do occur in various parts of the world. Accordingly, it is imperative to continuously explore the development of acceptable norms applicable not only to

detenues but indeed to all persons whose human rights are threatened. Many countries, like ours, have constitutional guarantees, legal provisions and an independent judiciary to ensure that human rights are respected.

The Human Rights Commission's Working Group on Disappearances, Arbitrary Detention and the Special Rapporteur on Torture have observed that impunity is perhaps the most important factor contributing to the phenomena of disappearances, arbitrary detention and torture. India affirms that the international community should be concerned with these phenomena and the need for establishing corrective mechanisms and safeguards. India has developed the necessary institutional and systemic mechanisms by which actions violating these norms are brought to the notice of the authorities and addressed promptly.

The right to life and personal liberty is a fundamental inalienable right conferred on all citizens by the Constitution of India. The Constitution guarantees that a person shall not be tried for the same offence twice, and that he is not punished for an act which was not an offence when it was committed. In consonance with the constitutional powers, the legal codes in the administration of justice, the Criminal Procedure Code, contains elaborate provisions to safegurad the basic human rights to life and liberty and due process of law. These give the individual equality before law, protection of life and liberty and protection from illegal or arbitrary arrest. The fiercely independent judiciary has acted zealously to protect these rights. The actions of the State in maintaining law and

order are subject to judicial review. Even the findings of court martial and other enquiries can be challenged by affected persons and are liable to scrutiny in a civil court.

A magisterial inquiry is mandatory for deaths in custody and there are known instances of police officers being punished by the court for such excesses. We have also amended the Penal Code to make a special provision for custodial rape, that is, rape of a woman by the police while in police custody, or by a person in a fiduciary position *qua her*. We have taken the drastic step of reversing the normal burden of proof of criminal jurisprudence in such a situation. If the woman complains of rape, the burden will be on the accused to establish that she consented.

In what constitutes a unique legal process, any individual or group can bring instances of violations of human rights to the attention of the high courts and the Supreme Court for the purpose of seeking judicial remedy through 'public interest litigation'. Even a post card of a prisoner from jail was entertained as a petition by the Supreme Court of India in the famous Sunil Batra case.

Judicial proceedings at all levels are open to the public, and are routinely analysed in the press and the media. No issue of consequence goes unaired owing to the vigilance of the press. India's free press provides an effective mechanism against any act of misdemeanour or delinquency on the part of the law enforcement agencies or any other governmental authority. In addition, there are, in the country, a large and ever-increasing number of NGOs, human rights activists and civil liberty groups who

highlight issues of public interest relating to human rights in the widest sense.

Apart from the political institutions, measured steps have been taken to create institutions to safeguard the well-being of, and to ensure justice to, our minorities and all diverse weaker sections of our society. This complex interlocking of institutional safeguards buttressed by an assertive public opinion constitutes the most assured guarantee of human rights in India.

The National Human Rights Commission set up recently by India is an earnest of its commitment to be ever vigilant in identifying where and why there may be any weaknesses, any gaps between pronouncements and action, between legislation and its implementation. Such a commission, independent of the government and with transparency in its work, is an expression of the government's resolve to act firmly to bridge these gaps. The message is clear that we do not tolerate violations in human rights. The functions of this commission include its undertaking inquiries either on petition or *suo moto* into complaints of human rights violations by public servants. The commission has wide-ranging functions. Particularly noteworthy is a provision for visits to prisons or any other institution where persons are detained.

Returning to Dr Manmohan Singh's wider argument for a moment, the delicate balance of a pluralistic democracy is nurtured by respect for the rule of law. The exercise of pluralistic democracy, however, does not function in a void. Social and economic changes create their own tensions in all societies. Democracy provides opportunities for peaceful protest and political dissent. Up

to a point this is a healthy phenomenon and it can help us to devise timely measures to correct imbalances and distortions in the process of development.

Yet some divisive elements project these in ethnic, religious and secessionist terms, and choose to impose their will by force instead of by peaceful democratic means involving dialogue, discussions and persuasion. The dilemma that confronts many democracies today is the maintenance of this delicate balance in the face of what has finally come to be recognised at the Vienna Conference as one of the most dangerous threats to the functioning of democratic states and as violation of human rights. This is the phenomenon of terrorism and the external forces which back it.

In this context, Shri Atal Behari Vajpayee felt that though democracy is necessary, it might not be sufficient to safeguard human rights; as a system, it is the most conducive to allow the individual to live a life of dignity which affords him an opportunity to exercise his human rights including economic, social and cultural rights. Effective safeguards against arbitrary behaviour can only be based on respect for the rule of law and for human dignity. The very aim of terrorists is to destroy the rule of law through calculated violence against both the individual and the State. Terrorism assumes a particularly malevolent form when aided, abetted and sponsored from abroad. We have faced and are facing the situation of our commitment of democracy, rule of law, our secular fabric and our territorial integrity being challenged by terrorist violence.

In Punjab, terrorist violence took a toll of about 12,000 lives in the last decade and nearly 7,000 in 1991-93. In

Jammu and Kashmir about 4,000 lives have been taken. This includes more than 2600 Muslims slaughtered by the terrorists. Innocent citizens have been abducted, tortured, raped, killed and brutalised. Political leaders, workers and their relatives have been eliminated to prevent all democratic political activity; government officials have been killed to silence the administration; members of the judiciary and the press intimidated to create a breakdown of the legal system and of independent journalism; intellectuals, educationists, journalists and community leaders abducted and killed to silence dissenting opinion against terrorism. The systematic, bigoted extremism by terrorist elements has resulted in the exodus of 250,000 members of several religious communities – Hindus, Sikhs, Buddhists and Christians – from the Kashmir Valley to other parts of India. Indeed as many as 50,000 Muslims have also felt compelled to flee the Valley to seek safety and succour in other parts of India.

During one month alone, in January 1994, externally sponsored terrorists killed more than 120 persons in Jammu and Kashmir. This included 33 members of security personnel, five Hindus, 77 Muslims and others. There were 459 incidents of attacks (on security forces as well as, civilians), explosions and arson. The terrorists kidnapped 30 persons, extorted money, burnt and destroyed scores of government buildings, educational institutions and private houses.

In this environment, the normal criminal laws of the land and the systems by which they are operated have been rendered ineffective and inadequate. The Government of India, in order to protect the human rights of its citizens,

had, therefore, to enact special legislation. Of these, the Terrorist and Disruptive Activities (Prevention) Act (TADA) is a temporary legislation subject to parliamentary review every two years and the Armed Forces (Special Powers) Act extends only to areas which may, for the time being, be declared as 'disturbed areas'.

Such legislation exists in a number of States faced with problems of a far lesser magnitude. However, in all such special legislation in India, scrupulous care has been taken to protect the rights of the individual under the process of law. Such legislation is not in any way in the nature of any arbitrary decrees but consists of laws duly deliberated upon and passed by Parliament. The application of TADA to individual cases can be challenged in court and, in suitable cases, such application has been struck down by the courts.

Habeas corpus, one of the most powerful legal tools of judicial remedy, is available to all under the Indian judicial system in all circumstances. Under TADA, accused are required to be produced before a magistrate within 24 hours. In case detention is confirmed, the accused remains always under judicial custody through the order of a competent court. Under the laws relating to preventive detention, each case of detention has to be confirmed within about 30 days by an advisory board of three judges. The chairman is a sitting judge of the high court and two other members are retired judges of the high court. The opinion of the advisory board is binding on the State.

There are also several procedural safeguards, and detenues are released by the high courts or the Supreme Court if these safeguards are breached. To give an

example, in the State of Maharashtra, 3,873 persons were ordered detained under the National Security Act in 1993. Of these, 478 were released after scrutiny by the State. Another 1,332 were released by the advisory board. The courts released 932. Only 238 served the full period of the detention.

There is thus no provision which allows any form of impunity to the law enforcement and security forces against prosecution or other disciplinary proceedings for any acts done in the exercise of powers conferred in these Acts. In the State of Jammu and Kashmir alone, during the ongoing phase of terrorism and externally supported insurgency, action has been taken against 170 officers and men of the army and security forces, which includes rigorous imprisonment and confinement, dismissal from service, suspensions pending inquiry and other forms of departmental punishment which could have long-term implications on the career prospects of the concerned personnel. Rarely would a government faced with a situation of comparable magnitude punish its own security forces for violation of discipline to this extent as the Government of India. India's newly established National Human Rights Commission, in the short period of its existence, took *suo moto* notice of the reported allegations of firing by the security forces in J & K in October 1993. That firing was related to the month-long episode where Pakistan-supported militants had laid siege to the Hazratbal shrine. The peaceful resolution of the Hazratbal incident, where India's judicial system played a unique role in safeguarding human rights, has been an eye-opener to the world.

Even while dealing with terrorism and extremist elements who are bent on killing innocent citizens with impunity and indulging in wanton death and destruction, we are conscious of our obligations at all times. The endeavour is to eschew excessive force and not to take recourse to unlawful or illegal means. The security forces in Jammu and Kashmir have been issued human rights 'dos and don'ts', collectively known as the 'Ten Commandments'. The Special Rapporteur on Torture, in his report, has indicated his sensitivity to the ferocity of the terrorism faced by the Government of India in Jammu and Kashmir and that the Government of India is not seeking to invoke this serious problem to condone torture.

The spectre of terrorism threatens the survival of democratic civil society across the globe. It is imperative to bring massive and consistent pressures of world public opinion against terrorists and subversives. This is where the special rapporteurs, working groups and members of the Human Rights Commission have a responsibility, for there cannot be a situation in which the human rights are seen to be the preserve of the practitioners of terrorism, while those dealing with the menace courageously, in extremely difficult circumstances, are falsely condemned for violations of human rights.

India believes that human rights organisations and NGOs also carry a very special responsibility in this regard. In the exercise of running scoreboards of the performances of governments, a one-sided approach, serves the necessary reminder to the governments but practically amounts to condoning terrorism and terrorist groups, neglecting their much more numerous victims

whose human rights are the responsibility of the democratically elected government to defend.

The post-Cold War era provides us with an excellent opportunity for the furtherance of cooperation in the field of human rights. The promotion and protection of human rights can best be achieved not through mutual recrimination and much less through violence and resort to terrorism, but through mutual cooperation, understanding and confidence-building. Human rights must not be used for sectarian ends and their genuine promotion can only be achieved if we all work together to create an environment of trust, understanding and friendship. This is no time for fault-finding in the name of fact-finding. India is committed to human rights. This is not a principle that the Government of India has discovered in the 1990s. The debates preceding the adoption of the Constitution of India show India's traditional and time-tested commitment to human rights, which goes back to the early years of its Independence and was rooted in its freedom struggle.

We have always worked in the spirit of openness and transparency. Even Jammu and Kashmir, where we are faced with terrorism of unparalleled ferocity, is open. The effort of the government is to create greater transparency regarding the actual situation of Jammu and Kashmir. There are no restrictions on visits by journalists and individuals to J & K. In 1993, as many as 142 foreign journalists, a large number of foreign diplomats, parliamentarians and tourists visited the State apart from our own media and NGOs. All ambassadors in India have been offered visits to J & K and the European Union Troika

ambassadors have already been there. The International Commission of Jurists and the International Committee of the Red Cross have visited the troubled State.

At the World Conference on Human Rights in Vienna, 170 countries in their common endeavour to remove and resist the threat to human rights entrenched in terrorism condemned all acts and practices of terrorism as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilising legitimately constituted governments. The Vienna Declaration calls upon the international community to take necessary steps to enhance cooperation to prevent and combat terrorism. We believe that if the objective of eliminating the phenomenon of torture, arbitrary detention, disappearance and safeguarding the fundamental right of freedom of opinion and expression is to be fully realised, the world community must also take into account human rights violations perpetrated by terrorists. This is in keeping with the call in the Vienna Declaration to take necessary steps to preserve and combat terrorism, all acts and practices of which were recognised as activities aimed at the destruction of human rights and fundamental freedoms.

As regards the situation of human rights and fundamental freedoms the world over, I said in my statement towards the end of the Geneva deliberations, that there can indeed and should be no room for confrontation or conflict, considering our shared vision of universal validity of basic human rights, our constant common adherence to the universal declaration of human rights and our constant commitment to the Charter of the

United Nations, which requires us to cooperate in promoting respect for human rights for all mankind irrespective of race, religion, language or sex.

India welcomes the enhanced global commitment to the promotion and preservation of human rights. At the same time, it needs to be equally recognised that a sound evaluation of performance in the upholding of human rights has to be holistic if it is to honestly promote cooperation in implementing universally acceptable and non-discriminatory norms of human rights. India believes that such an approach will bring in its wake a new opportunity for the international community, in the words of the Charter, towards "better standards of life in larger freedom".

It is by the collective conscience of humanity and States that the UN Human Rights Commission fulfils its Charter role. Human rights questions are essentially ethical and moral. Any approach to human rights which is not animated by a sincere desire to protect rights, but is motivated by disguised political perceptions or, worse, to serve as a vehicle to wage a self-serving and blatant political campaign against another country cannot but undermine the noble mandate.

The universal validity of basic human rights and fundamental freedoms is indeed beyond question. India is assiduously vigilant about her commitment to human rights. But at the same time, India cannot accept that the ambit of human rights can be constantly adjusted by assumed or absolutist interests, sometimes in human rights and sometimes in self-determination. Clearly we cannot condone a situation where the vocabulary of human rights

becomes an instrument of unscrupulous parties to corrode the political cohesion or territorial integrity of member States of the UN.

It is preposterous to equate the right to self-determination with religion and with extraterritorial ambitions, be it covertly or overtly. Elusive and selective interpretations of this concept manifest themselves in artificial creation and encouragement of group claims resulting in acts of anarchy and aggression. This poses a grave threat to the survival of pluralistic polity across the globe. Indeed, nearly all States are multireligious and multiethnic in varying degrees and will remain so. If anything, owing to the impact of human rights, nations will become more, not less, pluralistic. The State is and has to be a common home for all ethnic, religious, and linguistic groups residing there, enjoying equality in all respects. We believe that our experience in the development of a cohesive policy, emphasising unity in diversity in the framework of an open society, holds important lessons for the evolution and sustenance of all pluralistic societies.

Pakistan poses as a champion of Kashmiris and sheds crocodile tears for their so-called plight in India. But this concern rings hollow for Pakistan has done little for the people of the areas of Kashmir under its illegal occupation. Apart from effectively disenfranchising most of the areas of Kashmir under its illegal occupation and ruling them directly from Islamabad through a Commissioner, it has cruelly ignored the socio-economic developmental needs of the people there. The economy of Pakistan-occupied Kashmir (POK) remains stagnant – more or less as it was in 1947 – with the literacy rate at a

bare 14 per cent and the proportion of irrigated to cultivable area a meagre 7 per cent. It is no wonder that the Pakistan Human Rights Commission noted that "the Northern Areas were the world's worst victims of micro-nutrients...deficiency...as many as 65 per cent of children, 40 per cent of women of child-bearing age and 90 per cent of pregnant and lactating mothers suffer from anaemia of nutritional origin". So much for Pakistan's tears over the plight of Kashmiris.

In contrast, suffice it to say that in the Indian State of Jammu and Kashmir, the per capita plan assistance over the last 20 years has been over six times the national average; its irrigated area as a proportion to cultivable area is 41 per cent, nearly six times that of POK; its literacy rate is 32.68 per cent – two and a half times that in the Northern Areas; and the economy has been diversified with the secondary sector increasing nearly threefold as a proportion to the total economy and the service sector expanding by more than 50 per cent.

Pakistan's call for self-determination in Jammu and Kashmir in contravention of historical facts and international law is motivated by its sole objective of territorial expansion. It seeks to identify the whole State of J & K in monolithic terms. The fact is that J & K is a conglomerate of diverse ethnic, religious, lingual and cultural identities. It is home to Muslims of various hues, Hindus, Buddhists, Sikhs and Christians who have traditionally lived in harmony. Any attempts to project the situation in divisive terms can only be shortsighted. The history of Pakistan itself has shown the tragic futility of basing nationhood on religion.

For Pakistan, self-determination for J & K has meant only forced assimilation into Pakistan. What is more, while Pakistan talks of self-determination for J & K, it denies the same rights itself to the people of POK by Article 7(ii) of its Constitution. In the Northern Areas even the basic rights of representation are denied and no elections have been held to this date.

The difficulties that have arisen today in J & K can be traced to the singular fact that Pakistan has not ceased to covet Kashmir and has never reconciled itself to the accession of J & K to India, the legality and finality of which cannot be questioned. The only question that remains to be addressed is that to this date, a part of J & K continues to remain in Pakistan's illegal occupation.

In turn, India went on to encourage and facilitate the people of the State to express their wishes which concluded in the adoption by the people of a separate Constitution for the State in 1956, in which, by popular will, they confirmed the accession and declared themselves to be an integral part of India. Thereafter, there have been repeated elections in the State allowing for people to freely elect their representatives.

Pakistan has the audacity to use human rights slogans in an august assembly such as the UN as the final assault to achieve its territorial designs. The very locus of Paksitan to bring up resolutions on human rights against India must be challenged. Not only is it not yet a signatory to the most important human rights instruments, but also its own less than worthy performance in all aspects of human rights, be it women, religious or ethnic minorities, political opposition, or any form of dissent, reads like a saga of

human denial. Pakistan's blatant propaganda against India in Geneva took the form of a resolution calling for a fact-finding mission to be sent to investigate allegations of human rights abuses in Kashmir. The entire exercise was politically motivated, as far as India was concerned. Furthermore, India called upon the commission to pause and consider that human rights are being relentlessly crushed and violated by Pakistan-backed terrorists in Jammu and Kashmir; Pakistan is clearly defying international norms of human rights, specifically General Assembly resolution 48/122 of 20 December 1993, and resolution L39 of the UN Commission on Human Rights and Terrorism.

On our part, India is committed to resolving the problems of Jammu and Kashmir through a sustained revival of the political process, notwithstanding the severe challenges posed by the extremely dangerous and complex environment created by terrorism. This is exacerbated by the creation of a virtual vacuum through the terrorist bullet and by the massive propaganda and disinformation campaign that has been launched with the confidence that the gun would not allow democracy to raise its flag again.

India and Pakistan have the Simla Agreement (see Appendix 3) to work on, which foresees friendship and cooperation between our two countries provided it is adhered to. India remains willing to discuss with Pakistan all issues of concern including J & K in the context of the Simla Agreement. We have already conveyed six proposals to Pakistan in the hope that agreement on these would create an atmosphere of confidence. India has noted that

there was no serious response from the Government of Pakistan. The latter instead has opted for the path of confrontation and UN fora have been chosen repeatedly for this purpose.

It is most unforutnate that, at this point of history, principles of human rights and self-determination are being grossly misused by some interested parties to challenge our unity, political cohesion and territorial integrity. India's commitment to the principle of self-determination is well acknowledged. We were leaders in the historic struggle against decolonisation. Clearly, this concept cannot be used to promote subversion or disruption of independent democratic States. This is accepted by the UN and was reiterated conclusively and unambiguously in the Vienna Declaration adopted at the World Conference on Human Rights. Selective and slanted definitions of the principle of self-determination serve no legitimate purpose and are clearly a cover for promoting secessionism in an integral part of our country. If not effectively checked, such an approach can have disastrous effects on the orderly functioning of most societies.

Whatever we do, as individual countries or collectively as members of the UN, the efforts should be to promote cooperation in implementing universal norms of human rights in the increasingly interdependent world we live in. We also believe that the human rights movement must not be politicised nor must they become an instrument for creating new barriers against orderly functioning of plural democratic societies. The creation of the post of high commissioner, an initiative which India supported, presents a challenging opportunity to move away from

politically motivated prescriptive inquisitions to a more productive and cooperative approach.

The World Conference on Human Rights has reaffirmed the right to development as a universal and inalienable part of fundamental human rights. India is currently engaged in a massive programme of social and economic reforms designed to accelerate the pace of development, eradicate poverty, meet more effectively the basic human needs of our people and to integrate our economy into the evolving global economy. We need peace and stability, internal unity and social cohesion for the successful implementation of our programme.

Today, the externally inspired, aided and abetted terrorism of which India is a victim, threatens an orderly implementation of this programme. It aims to undermine our unity and social cohesion and, by challenging our territorial integrity, it seeks to divert our attention from the basic task of nation-building. While assiduously committed to the protection and promotion of human rights, India shall never surrender to the disruptive and evil forces of terrorism which is a global phenomenon and affects many countries.

India's struggle against terrorism is a part of a world-wide struggle to promote the rule of law as against the rule of the gun, a struggle for democracy as against authoritarianism; a struggle for the triumph of reason, compassion and rationality as against forces which fan religious fanaticism and promote communal hatred; a struggle for a world order which celebrates human diversity and cultural pluralism, as against the imposition of a rigid, dull and monotonous uniformity.

Responsible international opinion, whether in the media or in governments, cannot for long avoid taking a clear position on whether human rights are better protected by sympathising with terrorists and their external sponsors or by supporting firmly democratic governments. Constant sniping at elected governments, thereby encouraging cross-border terrorism, even casually or unintentionally, is a sure recipe for destroying both democracy, the cradle of human rights, and the cherished offspring.

India seeks the world community's sympathy, understanding and support in its struggle against terrorism which aims at creating an environment in which, in the famous words of Thomas Hobbes, man's life will be poor, nasty, brutish and short. For whom would the bells toll if the terrorist groups which now challenge our territorial integrity succeed in their objectives? They toll for all of us who believe in a world order where reason and rationality prevail, and in which men and women with diverse cultural, religious and linguistic identities can live and work together in a spirit of brotherhood and human solidarity.

The people of India have made their choice. The government elected by them is determined to take all measures to protect their human rights so flagrantly under attack from terrorists, militants and their supporters. In this we believe we will have the support of all freedom-loving people of the world. Freedom from terror is the prerequisite of life with dignity.

3

A View of the Valley: Brief History of J & K

India opted for a peaceful resolution to the Kashmir problem by taking it to the United Nations Security Council on 1 January 1948.

In its complaint, India drew the attention of the Security Council to the threat to international peace and security "owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is a part of India". (See Appendix 2.) The Government of India requested the Security Council to

"call upon Pakistan to put an end immediately to the giving of such assistance, which is an aggression against India", failing which, India "may be compelled, in self-defence, to enter Pakistan territory in order to take military action against the invaders".

In retrospect the mistake India may have made was that it did not lodge the complaint under Chapter VII of the UN Charter, which deals with acts of aggression and instead, chose to invoke Chapter VI under which parties to a dispute seek pacific settlement of disputes by "negotiations, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".

The dispute with Pakistan was clearly over the invasion of Jammu and Kashmir in 1947. Yet why did Pakistan choose such an aggressive action?

The Indian Independence Act of 17 July 1947 legally put forth the British decision to divide the British Indian Empire into two sovereign States – a Muslim majority Pakistan and a multireligious India. It was a hastily made decision, reached by the British who were in a hurry to wind up their affairs in the Indian subcontinent.

The new British government led by Clement Atlee at the end of the Second World War had declared that India would be given freedom. Towards that end, a Cabinet Mission headed by Sir Stafford Cripps was sent to India in the spring of 1946 to pave the way for Britain's eventual departure. The Mission recommended a Constitution that would give maximum autonomy to the provinces and yet preserve the historical, cultural and geographical entity

known as India. India's first Prime Minister Jawaharlal Nehru took over the interim government in September 1946. The Mission also stated that the British Paramountcy over the 562 Princely States would cease on Independence Day, technically making these States independent entities. The British Government, however, separately declared that if a particular Princely State did opt for independence, Britain would neither recognise nor support such a move. A States Department was set up to work out the modalities for the integration of the States into the two new Dominions.

One of these Princely States was Jammu and Kashmir, ruled by Maharaja Hari Singh. He was the last member of the Dogra dynasty to rule over the modern State of Jammu and Kashmir, created following the Treaty of Amritsar of 16 March 1846 between the British Indian Government and the Raja of Jammu Gulab Singh. The British transferred to him "all the hilly or mountainous country...situated to the eastward of the River Indus and westward of the River Ravee including Chumba and excluding Lahul".

The occupation of the newly acquired land proved somewhat difficult. Governor Sheikh Imamuddin, appointed by the departing Sikhs, had mobilised forces to oppose the Dogras. These were joined by thousands of Pathan tribesmen (this scene was to repeat itself a century later). Meeting stiff opposition and apprehending decimation by the enemy, Maharaja Gulab Singh sought outside help. The British obliged and led by the British agent at Lahore, Major Henry Lawrence, secured for him by force what they had given to him on paper.

Gulab Singh's career began in 1809, when, at the age of 17, he enlisted as a trooper in Maharaja Ranjit Singh's Sikh army. It helped that his great-granduncle was Raja Ranjit Deo, the ruler of the principality of Jammu which had fallen into decay in 1780. Gulab Singh, illiterate but canny, proved to be a brave and resourceful warrior, distinguishing himself in the siege of Multan in 1819. He was, as a result, conferred the title of Raja and the principality of Jammu was revived and bestowed upon him.

That same year he accompanied the Sikh army through the Pir Panjal passes into Kashmir, from where the Afghan rulers were ousted. The Sikhs, however, did not find the Kashmiris too accommodating, and so Maharaja Ranjit Singh had to despatch his most successful general, Hari Singh Nalwa, as Governor for a year. It was only under his successor, Moti Ram, that the Kashmiris were finally subdued, heralding the return of Hindus who had fled from the Valley, as well as immigration of Sikhs.

In the meantime, Gulab Singh subdued the numerous small hill states around Jammu, accomplishing this by the 1830s. He then added Ladakh, Skardu and Baltistan to his land. So, in 1841, when the Muslims in Kashmir revolted, Gulab Singh was sent on a punitive expedition. His own ambitions suffered, however; his attempt to conquer Tibet resulted in the death of his general, Zorawar Singh, and the decimation of his force.

During the same year the British faced a revolt in Aghanistan and their garrison in Kabul was wiped out. The British sent an expedition to punish the Afghans, and their return to India was facilitated by Gulab Singh. While the British returned, they took the opportunity to pick up another prize – the Lahore-based Sikh kingdom, the

creation of Maharaja Ranjit Singh who died in 1839. His bickering successors could not retain the empire for long, and in December 1845, themselves provoked a war against the British which ended the rule of the Sikhs. The consolidation of the Sikh empire was helped a great deal by Gulab Singh, who was amply rewarded by the Sikh emperor by installing him as the ruler of Jammu. In 1846 the Sikhs had been obliged to cede Kashmir to the British. But since they were reluctant to expand their rule and the occupation of Kashmir was an unnecessary burden for them to undertake, they transferred Kashmir (by the Treaty of Amritsar on 16 March 1846) to the ruler of Jammu for a sum of Rs. 7,500,000.

The history of the Kashmir Valley that Gulab Singh and the Dogras acquired long preceded the Sikhs and the British. It is believed, by both mythologists and geologists, that the Valley was a lake in prehistoric times. A well-known Hindu legend holds that this lake, called Sati Sar (lake of the chaste woman) became the home of Jalodbhava, the water demon. This demon terrorised the sacred Nagas (snakes), the guardians of the lake. These Nagas, whose descent was traced to Kadru, a wife of the immensely devout Kashyap Muni, therefore, appealed to him for help. Kashyap Muni sought help from the Gods; Lord Shiva responded and pierced the ring of mountains with his trident, thereby allowing the water to drain out. His wife Parvati then crushed the demon by dropping a mountain on top of it; that mountain is said to be modern-day Hari Parbat. The dried lake formed a basin-shaped valley, about 84 miles long, with a width ranging from 20 to 25 miles. This land became known as Kashyapamar or Kashyap-

bhumi in honour of the great sage who had summoned the Gods. In due course, the name evolved into Kashmir. The Nagas are today remembered by places with names like Anantnag, Sheshnag, and so on, and serpent worship is still prevalent in Kashmir: 700 shrines devoted to this form of devotion are in the Valley.

While little archaeological or documentary proof of Kashmir's ancient past survives, an unusually early Hindu source is the poet-historian Kalhana who penned the *Rajatarangini* (River of Kings) in Sanskrit in A.D. 1148. Eleven ancient accounts were reportedly used to compile this eight-part history. According to Kalhana, in the beginning the region was split into numerous little kingdoms engaged in internecine warfare. Some of the defeated princelings therefore sought help from the Rajputs of neighbouring Jammu. Gonanda from Jammu became the first king to unite the region and founded a dynasty in 2448 B.C.; thus, from the earliest of times, the fates of Jammu and Kashmir became intertwined.

Gonanda and his son Damodara supposedly died in the epic war depicted in the *Mahabharata*; the victorious Pandava brothers took over the Valley for a short while, and to this day a few ancient ruins in Kashmir are called Pandavlari. Nothing is known about 35 of the 52 kings who followed, although one king, Ramadeva, apparently conquered a lot of land outside Kashmir. Kalhana then mentions the conquest of Kashmir by Emperor Ashoka the Great (274 to 237 B.C.), along with whom came Buddhism. The city of Srinagar was perhaps founded by him.

After the death of Ashoka, local rulers once again took over and ruled for about three centuries. The next

upheaval saw the conquest of the valley by the Kushans who ruled for about 100 years till A.D. 178. After them, the Gonanda dynasty was restored. A fusion between the resurgent Brahmanical Hinduism and the fading Buddhism gave rise to Shaivism – the faith of Kashmiri Pandits.

In the sixth century A.D., Mihirgul the Hun sought asylum in the Valley. Instead of leaving later, however, he seized power. Although his suicide restored the Gonandas, his tyranny and excesses forced the people to establish a council of ministers with powers to depose an unsatisfactory king. This was implemented almost immediately when Yudhistra was replaced by Pratapaditya from Ujjain. But the greatest ruler of this dynasty was Lalataditya who took over around A.D. 724. He is remembered as a wise king, a great conquerer and a prolific builder. Decline followed him but Kashmir still managed to beat off an invasion by Mahmud of Ghazni in 1015. The people could not repeat this feat against Khan Dalcha or Zulkadar Khan the Tartar in 1319, because the ruler, Sahadeva, fled to Kishtwar instead of defending his kingdom. The Tartar decided to withdraw after an eight-month long occupation, having sacked and depopulated the Valley; but he was overtaken by the winter snows and killed.

Among the survivors in the valley were two outsiders, Shah Mir from Swat and Rainchin Shah from western Tibet. The latter seized the throne, and the Hindus say that he adopted the religion of the first person he met on a particular morning, who happened to be a Muslim.

According to the Muslim accounts of Rainchin's conversion to Islam, however, the king tried to adopt the

religion of the majority of his subjects. So he called on the head priest of the Shaivite Hindus, who presented him with two problems: firstly, Hinduism does not normally accept converts and, secondly, the king must find acceptance in one of the castes. The latter was not a problem – he would logically be accepted as a Brahmin or as a Kshatriya. While the matter was being debated, Rainchin saw the great Sufi saint Bulbul Shah at prayer. Impressed by his piety and the simplicity of Islamic ritual, Rainchin became a Muslim and took the name Sadaruddin. Thus the first Muslim king of Kashmir took the throne for only two years from 1320. On his death his wife, Kotah Rani, tried to restore the kingdom to her own faith by inviting Udayanadeva, the brother of Sahadeva, to marry her and take the throne. A Turkish invader Urwin, however, forced Udayanadeva to desert his people and flee to Ladakh.

The queen now had to depend on Shah Mir, who had come to the Valley on a prophecy that he would one day rule Kashmir. He led an army against the Turk, who was captured and publicly beheaded. The prophecy, however, was put on hold for 15 years as Kotah Rani invited Udayanadeva back. During this period Shah Mir's popularity grew, till the king died and Shah Mir revolted, asking for the queen's hand in marriage. She either killed herself or was murdered; in any case, Shah Mir took the throne and proclaimed himself Sultan Shamsuddin. While the Hindu elite was discredited and demoralised, the new ruler's Islam proved to be of the gentle, mystical Sufi strain which resembled the essentially monotheistic Shaivite

Hinduism; it found ready appeal and his subjects rapidly embraced Islam.

The new dynasty lasted 222 years, yet only two descendants of Shamsuddin deserve mention: Sultan Sikander and Zainul Abidin. Sikander came 50 years after Shah Mir; his reign saw fanatic destruction of Hindu temples, texts and literature, and conversion by the sword. His 25 years were barbaric. His successor, Zainul Abidin, however, was quite the opposite and ruled for twice as long. He atoned for the sins of his predecessor and asked the Hindus who had fled to return. He introduced Persian arts, crafts and language to the Valley; soon Kashmiri artisans surpassed the Persians in skill, and to this day are world famous for their products.

About 100 years later, the dynasty ended following an internecine struggle for the throne. One contender, Yusuf Shah, sought help from the Mughal Emperor Akbar the Great. This help cost him dearly, for following Yusuf Shah's victory, Akbar demanded acceptance of Mughal paramountcy, which could not be refused. In due course, Yusuf Shah was banished to Bihar, and Kashmir became a Mughal province in 1586.

Although Akbar visited Kashmir thrice, it was his son and successor, Jahangir, who transformed it. The Chinar tree, now symbolic of Kashmir, is his legacy. The last great Mughal, Aurangzeb, left another legacy, one of bitterness and fear, for he ruthlessly persecuted the Kashmiri Brahmins. After his death the Mughals went into decline; his harsh policies, however, were continued by the

semiautonomous Mughal Governors of Kashmir, leading to yet another migration of Pandits from the Valley.

The Afghans replaced the Mughals in 1752. Their 67 years of rule were full of oppression and misery. A section of Brahmins actually gained, for their help was needed in running the government. But once the Afghans got a hold on things, they started persecuting these Brahmins as well: one of them, Pandit Birbal Dhar, fled to Lahore and sought the Sikh Maharaja Ranjit Singh's help. A force was sent, and in 1819, Kashmir became a Sikh province.

Maharaja Gulab Singh was succeeded by his third son Ranbir Singh, who reigned from 1857 to 1885. The son consolidated the empire built by his father, not least by pacifying remote mountain states such as Gilgit, Hunza, Nagar, Darel and Yasin during the 1860s. His rule was enlightened and popular, though he was unable to reform land tenure and tax assessment; corruption during his reign was rampant and unchecked.

Fears about the expansionist Tsarist Russia on the borders of Kashmir forced the British to reduce the authority of Ranbir Singh's successor, Pratab Singh. A Council of Regency was established in 1889, and the Maharaja reduced to a figurehead, even after the council was abolished in 1905 by Viceroy Curzon. During this time the population doubled while the number of jobs actually fell, leading to apprehensions that troubled times were around the corner.

The childless Pratab Singh was succeeded by his nephew Maharaja Hari Singh in 1926. Hari Singh's ascent to the throne coincided with the settling down in the

Valley of the son of a Kashmiri shawl dealer, Sheikh Mohammed Abdullah.

Another major protagonist of modern Kashmir, Sheikh Abdullah was born in Sorah on the outskirts of Srinagar in 1905. His family was poor, and to escape this poverty he got an education, and eschewing a career in medicine, he completed a Master's degree from the Aligarh Muslim University. It was in the late 1920s, during the global economic depression, that he returned to the Valley, where he got a job as a science teacher at the State High School.

At this time two other sons of Kashmir were prominent on the British India scene: Pandit Jawaharlal Nehru, who at the 1929 Lahore session of the Indian National Congress called for complete independence from Britain; and Sir Mohammed Iqbal, who at the 1930 session of the All India Muslim League proclaimed there existed a distinct and separate Muslim nation in the subcontinent.

Rapidly developing politics left an impact in Kashmir, where the Maharaja, sensing the times, allowed political parties representing the Hindus and Sikhs to be formed in 1931. The Muslims formed an unofficial political organisation – the Reading Room Party – and Sheikh Abdullah became a leading organiser. The Maharaja then allowed public meetings to take place, so that the people could choose their representatives who would present their grievances to the authorities. At one such meeting, an eloquent speaker named Abdul Qadir made a virulent speech advocating the massacre of Hindu overlords. This led to his arrest and riots; the police resorted to gunfire, killing 21 people. The State resorted to repressive actions such as mass arrests.

On 24 September 1931, Sheikh Abdullah was arrested. This led to such widespread upheaval that martial law had to be declared. Sheikh Abdullah burst into national prominence. British troops helped restore law and order by early 1932; the Sheikh was also released. He came to be known as Sher-e-Kashmir (Lion of Kashmir) and formed the All Jammu and Kashmir Muslim Conference at Srinagar that same year.

The Maharaja also tried to further defuse the crisis by setting up a Legislative Assembly of 75 members, of whom 33 were to be elected. The legislature was to have only limited consultative functions. This only whetted political appetites, and Sheikh Abdullah steamed ahead. Significantly, however, at the first Muslim Conference session he declared: "The Kashmir movement is not communal but has come into existence to get the grievances of all classes redressed; our State cannot progress until we learn to live amicably with one another."

It was during the 1930s that Sheikh Abdullah's complex relationship with Nehru began. Though both shared a vision of socialism and secularism, in private, they were quite different: Nehru was intensely scientific, while the Sheikh was a devout practising Muslim. Nonetheless, by 1938, Hindus were allowed to join the Muslim Conference, which by the following year, changed its name to the J & K National Conference, publicly discarding its communal connotations.

The party split over a language bill, with the Jammu Muslims leaving and reviving the Muslim Conference. It came to be regarded as the counterpart of the Muslim League in the Valley; the National Conference's admission

to the All India States' Peoples Conference – the affiliate of the Congress in the Princely States – marked Sheikh Abdullah as an ally of the Congress.

The next year, 1940, marked an important development in the subcontinent, when the Muslim League, meeting in Lahore, unanimously resolved that : ...No constitutional plan would be acceptable to the Muslims unless...geographically contiguous units are demarcated into regions which should be so constituted, with such territorial adjustments as may be necessary, that the areas in which the Muslims are numerically in a majority, as in north western and eastern zones of India should be grouped to constitute Independent States." The call for Pakistan had been made.

Sheikh Abdullah found himself losing the support of associates, who claimed that Muslims were deserting him in large numbers to join the Muslim Conference. He started making veiled references to an independent Kashmir, and in 1946, the hundredth anniversary of the signing of the Treaty of Amritsar, he launched the 'Quit Kashmir' movement to throw out Dogra rule. The Muslim Conference was asked by Pakistan's founder, Mohammed Ali Jinnah, to stay away from the agitation, as Jinnah hoped that the Maharaja would voluntarily bring his State to a future Pakistan.

Sheikh Abdullah was arrested. Nehru publicly lauded him. Defying a ban, he tried to go to J & K, but was arrested at the border and flown back to Delhi. Adbullah's position was stabilised in the Valley following this show of support. More attention came his way when Nehru showed up for his trial, even though he was sentenced to three years imprisonment.

As a result, the National Conference boycotted J & K elections when they were held in January 1947. Their popularity was illustrated when, out of 600,000 voters, only 180,000 showed up for the polls. The Muslim Conference won 16 of the 21 seats reserved for Muslims, claiming thus that they were the most dominant party in the State.

It was also the beginning of the end of the British in India, as the financially catastrophic winter of 1946-47 forced Clement Atlee to announce in February 1947 a policy of a drastic reduction of overseas responsibilities. This included an announcement that Britain would transfer power in the Indian subcontinent by June 1948, to a successor regime or regimes. Lord Louis Mountbatten was sent as the Viceroy to dismantle this empire; and during the nearly five months that he served, he announced that the British withdrawal would be preponed to 15 August 1947. Thus, it took Britain only seventy days to dismantle what they had ruled for nearly two centuries.

While Sir Cyril Radcliffe, a prominent London barrister, was deciding how to split up Punjab and Bengal between India and Pakistan, V.P. Menon was trying to work out the integration of the Princely States into the two new Dominions. Maharaja Hari Singh was an unusual case: he was a Hindu monarch of a population that was three-fourths Muslim.

Firstly, Kashmir's economy was inextricably linked with Pakistan: timber, which provided a third of the State's revenue, was marketed via Pakistan, as were most other produce and goods; all the food, fuel and power had to be imported, and all rail and all-weather road traffic was through Pakistan.

More importantly, however, whereas the Congress was sure to abolish princely privileges, Jinnah was soothingly reassuring on this count. The Pakistani leadership had geostrategic considerations for integrating Kashmir into their country: their rivers originated in Kashmir; most west Pakistan cities were exposed to a potential military threat from a hostile Kashmir.

Nobody was enthusiastic about joining Pakistan, however. The Kashmiri Muslims were suspicious of the overbearing Punjabi Muslims; bad memories of the Afghan reign made them shudder at the thought of kinship with Pakistan's North-West Frontier Province (NWFP); the Sufism of Kashmir was far removed from the orthodoxy and bigotry of the plains Muslims. In addition, the Hindus and Buddhists rejected Pakistan for obvious religious reasons.

The Maharaja, furthermore, started toying with the idea of independence, despite wiser counsel by his Chief of Staff of the State Forces, Major General Sir Henry Scott. His indecisiveness about what to do even frustrated Mahatma Gandhi; the Maharaja, rattled by Abdullah's growing support again, started negotiations with the Congress, while his Prime Minister did so with the Muslim League.

Trouble brewed in July 1947, when a large inflow of Hindu and Muslim refugees, fleeing from communal violence in the plains, took place. Tension began to brew in Poonch principality, and Hari Singh took direct control, levying punitive taxes, and ordering Muslims to deposit their arms with the police. About 60,000 Poonchis had served in the Army during the Second World War, so Hari

Singh had good reason. But the Muslims in his State force (about 30 per cent) rebelled and the Poonch revolt began.

Meanwhile, Independence came, and only three Princely States had not made arrangements with the new Dominions – Hyderabad, Junagadh and Kashmir. The first two had Muslim rulers and predominantly Hindu populations, and neither was contiguous with Pakistan; while the matter was the opposite in Kashmir. Some people felt that India would take over the first two, while Pakistan would get Kashmir.

Hari Singh would not make up his mind. He offered to sign a 'Standstill Agreement' with both Dominions, which Pakistan quickly accepted. Heavy administrative responsibilities bogged down India's response. Things got worse: Sir Cyril awarded Gurdaspur, a Muslim majority district in Punjab to India, ensuring Kashmir had a road link to India. Jinnah, now the Governor-General of Pakistan, felt that Kashmir was slipping away. With the Poonch revolt gaining momentum, Pakistan ordered incursions by armed bands of tribals to fight with their brethren in Poonch.

Seeing that winter was approaching which would cut Kashmir off from India, Nehru suggested to his Deputy Prime Minister Sardar Vallabhbhai Patel that some action be taken to bring the Maharaja and the National Conference together so that there might be popular support against Pakistan. Sardar Patel got Hari Singh to release Sheikh Abdullah on 29 September 1947. Soon after Sheikh Abdullah went to Delhi for negotiations on Kashmir's future, news came that 5,000 of Pakistan's frontier tribesmen had invaded Kashmir.

The invasion roused the anger of Kashmiris. The tribals reached the outskirts of Srinagar, committing atrocities along the way, most notably in Baramulla district. The Maharaja had no option but to turn to India. He sent his Prime Minister, Mehar Chand Mahajan, to Delhi asking Nehru for help, conveying his willingness to accede. Nehru was not in a mood to oblige the Maharaja, who still threatened to talk to Jinnah, until Abdullah intervened.

The Maharaja signed the instrument of accession on 26 October (see Appendix 2) which was accepted by Governor-General Mountbatten on 27 October. The Indian Army was rushed to Srinagar and pushed the invaders back. The accession was legally, constitutionally and politically valid (also having the backing of the largest political party headed by Sheikh Abdullah). However, the Government of India expressed a wish to make a reference to the people of the State to ascertain their wishes over the accession; secondly, the issue of the invasion of the State was referred to the UN Security Council for a 'peaceful settlement'; and thirdly, a war had to be waged to clear the State of invaders.

The government wanted a plebiscite for not only was it sure of winning, but also it would help Hyderabad and Junagadh joining India. Pakistan, on the other hand, was afraid of losing the plebiscite, and when the Governors-General of the two countries met in November 1947, Jinnah even objected to a plebiscite held under UN auspices, calling such a thing "redundant and undesirable". The talks broke down, and India went to the UN Security Council.

The UN Commission for India and Pakistan (UNCIP) resolved on 13 August 1948 that it would determine the status of J & K "in accordance with the will of the people" following an evacuation of Pakistani troops and nationals from the State. A phased withdrawal of Indian troops would follow Pakistan's total withdrawal. India accepted the resolution within a week; Pakistan evaded till 20 December 1948. A cease-fire was declared on 1 January 1949. The cease-fire line became the line of control after the Indo-Pak war in 1971. The two countries never got around to the plebiscite and passage of time made it redundant.

India went ahead and drafted a Constitution which came into effect from 26 January 1950. Though the Constitutions of all States were embodied in the nation's Constitution, J & K was given time for its plebiscite; till its Constituent Assembly drew up the State's Constitution, Article 370 was incorporated in the Indian Constitution as "transitional and provisional". This provision limited the power of Parliament to make laws for J & K; India controlled defence, foreign affairs, and communications.

The elections to the J & K Constituent Assembly were held in 1951. Despite the certainty that he would have won nearly 70 of the 75 seats anyway, Sheikh Abdullah allowed no opposition. Having become Prime Minister, he concluded the 1952 Delhi Agreement with Jawaharlal Nehru: besides extension of the fundamental rights guaranteed by the Indian Constitution to Kashmir and the coverage of the State by the Indian Supreme Court, Article 370 was given a character of permanence.

Right-wing parties in Jammu agitated for the abrogation of Article 370, provoking anger from Prime Minister Sheikh Abdullah. At the same time, superpower politics started intruding in the region, encouraging Sheikh Abdullah to think that independence was the best course for Kashmir. He began to air doubts about acceding to India; a crisis snowballed and he was dismissed from power. On 9 August 1953, Sheikh Abdullah was jailed, where he remained till 1964.

His deputy, Bakshi Ghulam Mohammed, who was instrumental in the overthrow of Kashmir's first Prime Minister, succeeded him. In February 1954, Bakshi Sahib guided the Kashmir Constituent Assembly to confirm the legality of the State's accession to India; a plebiscite was no longer necessary. Customs barriers between India and Kashmir were removed two months later. In May 1954, the jurisdiction of the Indian Government was increased to include all subjects on the Constitution's Union List. In 1956, New Delhi amended the Constitution so that Kashmir became like any other State, although Article 370 was retained. In May 1957, J & K was put at par with other States in financial matters; the next year the All India Services were extended to Kashmir, as was the Election Commission of India.

In 1962, China attacked India and grabbed large tracts of its territory. The Congress party prepared for change. It removed Bakshi Ghulam Mohammed and replaced him with his confidant Khwaja Shamsuddin. In December 1963, however, a strange incident changed things: a relic, reputed to be a strand of hair from the head of the Prophet Mohammed and kept in a mosque at Hazratbal,

on the outskirts of Srinagar, disappeared. The Valley saw the most unprecedented emotional and violent conflagration. Pro-Abdullah slogans were shouted; Bakshi's property was destroyed. Then, the relic mysteriously reappeared.

Sensing the mood of the people, Shamsuddin was replaced by Ghulam Mohammed Sadiq, a supporter of Sheikh Abdullah. The Sheikh was himself released on 8 April 1964. Both Nehru and the Pakistani President Ayub Khan invited him for talks. Nehru, however, died on 27 May 1964, and so did the talks.

Nehru's successor, Lal Bahadur Shastri, seeing that Bakshi had been the man to integrate Kashmir into India, brought him back; he changed the titles of the leaders of J & K from Sadr-e-Riyasat and Prime Minister to Governor and Chief Minister, respectively. Members of Parliament from Kashmir were now directly elected by the people rather than by the Kashmir Legislative Assembly. India extended Articles 356 and 357 of the Constitution to Kashmir: now Delhi could declare 'President's rule' in Kashmir and administer it directly should the need arise.

In 1954, Pakistan entered into formal military arrangements with the US against the Soviet Union. Consequently, Pakistan decided to wrest Kashmir by force. Following the Indo-China war in 1962, a friendship pact came into existence between China and Pakistan. They were encouraged by the popular agitations that the Sheikh led against the new Indian laws (he was again arrested in May 1965), and surmised that Kashmiris would welcome an invading army and sever their connections with India.

A convenient encounter at the Rann of Kutch, on the Gujarat border, encouraged Pakistan. A Sikh agitation in Punjab and language riots all over India sealed the Pakistani decision to invade India at the beginning of August 1965.

Pakistan was mistaken about several things. Firstly, the Kashmiris did not welcome them. It was they, in fact, who alerted the Indian Army units while the invasion was being mounted. India then took Pakistan by surprise with a diversionary attack on the Punjab. The Indian Army was able to reach the outskirts of Lahore. On 23 September 1965, a cease-fire was accepted by both sides. At negotiations held in Tashkent under the auspices of the Soviet Union, the two countries agreed to withdraw to the pre-August positions, implying that the cease-fire line could be treated as a *de facto* international border as well. India suffered a misfortune just after the agreement was concluded: Prime Minister Shastri died of a heart attack.

Another Indo-Pak war broke out in 1971: this time, the myth of a pan-Islamic nation in the subcontinent was exploded when a civil war erupted in Pakistan, leading to the formation of Bangladesh. A victorious Indian Prime Minister Indira Gandhi signed an accord with new Pakistani President Zulfiqar Ali Bhutto, at Simla (now Shimla) in 1972, stipulating that the two countries resolve their differences by peaceful means and through bilateral negotiations. (See Appendix 3.)

Sheikh Abdullah, who was released in 1971, was rehabilitated in 1975, following the signing of an accord between him and Mrs Gandhi. This six-point agreement reaffirmed Kashmir's status as a part of India, but

conceded the continuation of Article 370. Sheikh Abdullah became Chief Minister of the State. His popularity passed all tests in the 1977 elections; he remained Chief Minister for the rest of his days. During this time, he proclaimed his son Dr Farooq Abdullah to be his successor.

Dr Farooq Abdullah's party won the Assembly elections of 1983, and he organised a conclave in Srinagar of leaders belonging to the opposition parties from the States around India. He fell out with the Centre, and, consequently, defections from his party led to his fall from power. Instead of channelising this resentment, Dr Abdullah joined hands with Mrs Gandhi's son and successor, Rajiv Gandhi, and they together contested and won the 1987 elections in Kashmir, which the Muslim United Front (MUF), a conclave of major opposition parties in the State, somewaht exaggeratedly claimed were rigged.

A consequence of this was that all the frustrated workers of the opposition parties, particularly the Muslim United Front, which had posed no real threat to the National Conference anyway, went undeground. Political repression against them followed, and Pakistan found fertile ground for yet another attempt to fish in troubled waters.

Arms started pouring into the State. Prominent political personalities were assassinated. In December 1989 the daughter of the Union Home Minister, Mufti Mohammed Sayeed, a Kashmiri, was kidnapped by the J & K Liberation Front (JKLF). Despite signals that the militants would have eventually released her, the then government caved in and acceded to their demands for the release of five of their

associates. This led to an increase in kidnappings, not just in Kashmir, but all over India.

Things went from bad to worse as Pakistan poured money, arms and mercenaries into the Valley. Every time it looked like somebody wanted a peaceful negotiation with the Government of India, the terrorists ordered that person dead. The Awami Action Committee Chairman Mirwaiz (head priest) Moulvi Mohammed Farooq was one such man; he was shot dead in May 1990.

Five trying years of terrorism have taken their toll on the people of Kashmir. The Government of India is looking for a way to restore peace. We are willing to admit our past mistakes and oversights. But Pakistan refuses to allow the people to come forward and negotiate their own destiny. Even in 1994, despite their exhaustion with Pakistan-sponsored terrorism, the people and their possible representatives are too afraid of the threat of the Kalashnikov to initiate any political activity in the Valley, despite the Government of India's overtures. For the pro-Pakistan terrorists have openly announced that anyone who tries to settle things peacefully "will be dealt with". But drop by drop a trickle of a stream is beginning to flow. The arrival of spring is signalled in the gentle thawing of discontent and fear.

4

The Terrorists' Hit List

The list of victims of terrorism in J & K reads like a veritable Who's Who of the land.

Kashmir's leading human rights activist was, ironically, not a Muslim. H.N. Wanchoo, a Kashmiri Pandit, a well-known and highly regarded trade unionist, took up these cases of Kashmiri terrorists who he suspected had been killed or were illegally detained. He had filed a number of petitions in the Jammu and Kashmir High Court against the government, and was also known to have acted as an intermediary between the government and certain militant groups from time to time for the release of arrested militants.

On 5 December 1992, Wanchoo was kidnapped from his residence in Jawahar Nagar in Srinagar by militants

belonging to the Jamiat-ul Mujahideen, a pro-Pakistan, rabidly fundamentalist outfit. His corpse was thrown in Karan Nagar, Srinagar, only two hours after he had been kidnapped. The arrest of Ashiq Hussain Dar alias Mohammed Qasim Faktoo, publicity chief of the Jamiat-ul Mujahideen, led to the revelation that Wanchoo was killed on the orders of the militant outfit's chief, Hilal Ahmed Mir, who did not want the association of any Hindu with the movement.

Moulvi Mohammed Farooq, the Mirwaiz (head priest) of Kashmir and Chairman of the Awami Action Committee, was a popular religious head of, and held in great esteem by, Kashmiri Muslims. He belonged to the Hanifa Etikadi sect of Muslims and was opposed to the fundamentalist organisation Jamaat-e-Islami. He had great faith in peaceful political activity and communal amity. Perhaps that was why he continued to retain discreet links with the government; he had met erstwhile Union Minister for Kashmir Affairs George Fernandes during the turbulent early months of 1990.

On 21 May 1990, three Kashmiri-speaking youngsters entered his residence in Nageen, Srinagar, on the pretext of paying their obeisance. Minutes after they entered the Moulvi's guestroom, the watchman heard gunshots. He rushed towards the guestroom, and saw the boys emerging. He caught a hold of one of them, but the others fired at him so he had to let go. Moulvi Farooq was taken to the Medical Institute at Soura, where he was declared dead.

Dr Abdul Ahad Guru was a renowned surgeon, an intense intellectual and an ideologue for the pro-independence JKLF. He became the victim of intergroup

rivalry between the JKLF and the fundamentalist pro-Pakistan Hizbul Mujahideen. After various reports that he was in favour of resolving the Kashmir imbroglio through dialogue, he was kidnapped by Hizbul Mujahideen militants on 31 March 1993, while he was leaving the Soura Medical Institute. His corpse was found on the road the next morning. Two months later, top JKLF functionary Ghulam Rasool Dar Sohal was arrested; he revealed that Pakistan's Inter-Services Intelligence (ISI) agency ordered Dr Guru's elimination by the Hizbul Mujahideen to stall any possibilities of the initiation of a political process in the State.

Dr (Mrs) Sohani was a 78-year-old doctor living in Karan Nagar in Srinagar. After the outbreak of violence in Kashmir, she had preferred to continue serving the people of her locality rather than migrate to Jammu along with other Kashmiri Pandits. Although she was a very popular 'physician, she was apparently not liked by the militants. It was an open secret that she carried out abortions on unmarried Muslim girls, who had been raped by terrorists.

During the evening of 18 July 1990, a group of militants entered her house, beat her up, abused her and tied her to the bed with a rope. Her old age did not move the hearts of the terrorists; her pleadings and wails went unheeded. The terrorists sprinkled petrol in the room and set it ablaze. Her cries were heard outside, but no one dared to save her. She was burnt alive, in the house which sheltered helpless women.

N.K. Ganjoo was an ex-sessions judge who had presided over the trial of terrorist Mohammed Maqbool Butt, and sentenced him to death for murder. The sentence was

confirmed by the Supreme Court and Butt was hanged in 1985. On 4 October 1989, on a busy street in Srinagar, Ganjoo was shot down in cold blood. Before they fled, the killers left a note on his body, warning anyone against picking it up.

B.K. Ganjoo was an assistant engineer in the Telecom Department who had resisted attempts by terrorists to tap the telephone lines of the Governor and other senior officials. On 19 March 1990, he was told by some friends that the terrorists were planning to kill him, and so he planned to flee from his house in Chota Bazar, Srinagar, that very night.

Unfortunately, however, the militants barged into his house before he could leave. Ganjoo hid inside a tin rice drum, but was found out. The terrorists did not wait a second: they pumped several rounds of bullets into the drum, as his horrified wife and family watched. Then, in a psychopathic twist, they forced his wife and his daughter to taste the blood-soaked rice.

Mohammed Shaban Vakil was the editor of the Urdu daily *Alsafa*, published from Srinagar. While his paper gave adequate coverage to terrorist activities, as all locally published papers did, his editorials were different: he did not hesitate in criticising terrible acts such as extortion of money, bank dacoities, frequent calls for strike, and observance of 'purdah'.

On 23 April 1991, at around 10 o'clock in the morning, two boys wearing the typical Kashmiri *pheran* (a loose robe), entered the office and asked the manager where Vakil's cabin was. The terrorists went into his room, and soon after there was the sound of gunshots. The terrorists escaped,

leaving behind the body of Vakil in a pool of blood. He had been shot seven times – in the left cheek, the left ear, the left hand, the right ear and three in his neck. Obviously, Pakistan-backed Kashmiri terrorists are not too happy with freedom of the press.

Abdul Sattar Ranjoor was a veteran freedom fighter and the founder of the communist movement in Jammu and Kashmir. He was the General Secretary of the Communist Party of India in the State, but due to his old age, he had become politically inactive and was leading a quiet life.

Nonetheless, his communist ideology was not liked by pro-Pakistan Muslim fundamentalists who felt that communism was anti-Islamic. The fact that he was a very old man was of no consequence to the blood-thirsty terrorists: on 23 March 1990, a group of militants forced their way into his house in Ranjoor, Pulwama district, and gunned him down. He died immediately.

Dr Qazi Nissar Ahmed came from a leading religious family and was himself one of the most learned theologians in India. He was known as the Mirwaiz (head priest) of south Kashmir, and was based in his native Anantnag. In the late 1980s, he was politically active, and founded the opposition Muslim United Front (MUF), which lost the State elections in 1987. Most of his cadres went underground and joined various militant groups. He was arrested in 1990, but released in 1992 with his colleagues from the former MUF. He announced his retirement from politics, saying that he could not carry out such an activity while the gun was supreme in the Valley. His colleagues went on to form the Kull Jamaat Hurriyat Conference.

In 1994, however, seeing that the government was interested in restoring peace in the Valley through political means, he considered becoming active again. At the same time, the pro-Pakistan Hizbul Mujahideen asked him to allow them to use his mosque for their propaganda activities. He refused, as he was opposed to their fundamentalism, and on 19 June 1994, he was kidnapped by Hizb terrorists. His bullet-riddled body was found the next morning.

Although the local population was outraged – they shouted anti-Hizb slogans during his funeral procession – they were threatened by the Hizbul Mujahideen against such show of sorrow. As a result, several residents, including Dr Nissar's sister, had to take out advertisements in the newspaper offering public apologies to the terrorists.

Sarla Bhat, a resident of Anantnag, was a staff nurse at the Soura Medical Institute in Srinagar. On 14 April 1990, she was abducted from the Institute's hostel by a group of JKLF militants. She was riddled with bullets and her lifeless body was found five days later, in the downtown area of Srinagar. A slip was found on her body, describing her to be a police informer. The postmortem report concluded that she had been gang-raped before she had been killed.

Girja Tikoo of Bandipur worked as a laboratory assistant at the Government Girls High School in Trehgam, Kupwara. She was abducted in June 1990, gang-raped for several days, and then shred into pieces on a bar and saw mill.... Babli Raina, a teacher, was gang-raped in her house in Sopore, Baramulla, in the presence of her family, on 13 August 1990, before she was killed.... Asha Kaul was abducted from Achabal village in Anantnag, taken to a deserted Hindu house in Srinagar, and gang-raped and tortured. Her dead

body was found, in a decomposed state, on 8 August 1991.... Sajda Hussain was kidnapped while going to school in Kokarham, Baramulla, in December 1991. She was raped, and her dead body thrown into the Jhelum river.... Terrorists broke into Sohan Lal Branoo's house in Srinagar on 30 March 1992, and gang-raped his wife and young daughter. The girl died during the rape; the wife was shot after the gang rape was over....

The list of victims is endless. No exceptions for age, sex, or religion. Who were the people who took away their lives? 'Freedom fighters', motivated and trained by Pakistan to wreak havoc in Kashmir, such as the ones listed below.

Sajjad Khan alias Sajjad Afghani, a resident of Rawalkot, Poonch, in Pakistan-occupied Kashmir (POK), was initially an activist of the Harkat-ul Mujahideen in Pakistan since 1986. He participated in the Afghan war, but in December 1989, was brought back to Muzaffarabad in POK by his group's leadership and put in charge of recruitment and training of Kashmiri militants. After recruiting and training nearly 40 youngsters, he clandestinely entered Kashmir in June 1990. The group established a camp in the hills of Dara Harwan of Srinagar. He went back to Pakistan in February 1992, and returned to India, through Bangladesh, in January 1993, where he took over as chief commander of his group. Following the merger of his group with the Harkat-ul-Jehad-e-Islami into the Harkat-ul-Ansar, he became its chief commander. He was arrested in February 1992.

Imtiaz Ahmed Butt was born in a fundamentalist family of Rawalpindi, Pakistan. A diploma holder in architecture, he was associated with the Islami Jamaat-e-Tulba, the

students' wing of the Jamaat-e-Islami of Pakistan, right from his days as a student. He joined the Pakistan Army in January 1990 as a soldier, and after six months of training, he was discharged and he rejoined the Jamaat-e-Tulba, which at this time was recruiting youngsters for terrorism in Kashmir. Motivated by Atta-ur Rehman Chauhan of the Pakistani Jamaat-e-Islami, he underwent more arms training in September 1990 at Charat in Pakistan and in Mounga jungle near Lahore in January 1991. In May 1991, he and 50 other militants, supported by the Pakistan Army, launched attacks on an Indian border post in Poonch, Jammu. He slipped into the Valley in September 1991 along with 22 others through Kupwara. He worked with the Hizbul Mujahideen as an instructor for providing arms training to militants of the same group. At the time of his arrest in January 1993, he claimed that there were 45 mercenaries working for the Hizbul Mujahideen alone.

Twenty-one-year-old Shahin Butt comes from a poor family in Tankipala, Bagh, POK. He only studied up to class four; he later worked as a salesman in a grocery shop. He was motivated by Hamid Kashmiri, a cook at the Jamaat-e-Islami office at Bagh. Shahin was taken to the Jamaat office and offered Rs 2,000 per month if he fought in Kashmir. Being in dire need of cash, he quickly accepted, underwent training, and slipped into Kashmir with 16 others through the Kupwara sector. On 16 October 1993, he was trapped in the Hazratbal shrine with nearly 30 other militants when the Indian Army laid siege to the shrine. He finally gave up on 16 November and was sent back to POK during the first week of January 1994.

Pakistan's sponsorship of terrorism in Kashmir since 1989 is not an idea that was brainstormed overnight. Since the tribal invasion in 1947, particularly during the 1965 war, Pakistan's adventurism in India has been based on the assumption that Kashmiris would take to arms and support an invading army to oust the 'oppressive' Indian Government. This did not materialise in any of the conventional wars that were foisted on India.

In the 1980s, however, Pakistan's Inter-Services Intelligence (ISI) agency found itself controlling and directing the guerilla war that the Mujahideen waged from Peshawar in north-west Pakistan, first in Afghanistan against the erstwhile Soviet-backed regime in Kabul, then against the Soviet Army itself inside that part of the former Soviet Union which is today known as the Central Asian Republics. Their strategy against the Soviets was articulated by the head of the ISI's Afghan Bureau, Brigadier Mohammed Yousaf, in his book *The Bear Trap*: "Death by a thousand cuts – this is the time-honoured tactic of the guerilla army against a large conventional force.... Ambushes, assassinations, attacks on supply convoys, bridges, pipelines, and airfields, with the avoidance of set piece battles; these are history's proven techniques for the guerilla."

The more successful the venture became, the more it was expanded, and the greater the number and sophistication of arms brought into the theatre. Taking the example of the Western intelligence agencies during the covert wars in south-east Asia and in Central America, the ISI began using the hard cash proceeds from the supply and sale of narcotics to fund the guerilla war in Afghanistan. Supply of opium was no problem: the trinity of countries

– Pakistan, Afghanistan and Iran – known as the 'Golden Crescent' to law enforcement agencies around the world emerged as the source of a great deal of heroin found on the streets of New York and Paris, rivalling even the infamous Golden Triangle of Burma, Thailand and Laos. The ISI had on its hands a successful model of a war, complete with funding, that could be used to achieve Pakistan's territorial designs in Jammu and Kashmir.

Seeing, however, that they had never won a war against India, and realising that they risked becoming an international pariah by initiating a war against India (in the modern age of communication, Pakistan knew it would not be able to hide the facts from the world), they used the Afghanistan model to launch a proxy war against India, designed to bleed India to death.

They initiated their proxy war in India's Punjab, where militancy had been raging since the late 1970s, and which had gained momentum after the tragic storming of the Golden Temple, undertaken to flush out top Khalistani secessionist leaders. While the Khalistan movement started to lose favour among the Sikh mainstream and began to wane ideologically around 1988, Pakistan started to supply Punjab terrorists with arms, training and other facilities.

Despite the fact that the Khalistan movement began to lose its ideological sustenance, this began a period which saw the greatest level of violence and the highest number of killings in Punjab. A tremendous amount of Indian resources had to be expended in Punjab to contain the violence. Buoyed by the success of this strategy, the ISI turned its full attention to Kashmir.

Ironically, it was their relative neglect of Punjab, coupled with the holding of State elections in early 1992, that brought a quick demise to the Khalistani violence that bedevilled Punjab for almost a decade.

The ISI strategy for J & K comprised motivating Kashmiri youth to take up arms against India; providing them with the latest weaponry; plotting their strategy against Indian targets, both 'hard' and 'soft'; and finally promising that this time, their army would follow a Kashmiri 'uprising', rather than precede it, to 'liberate' the Valley from its 'oppressors'.

The extent of Pakistani involvement is documented by the Task Force on Terrorism and Unconventional Warfare of the House Republican Research Committee, of the US House of Representatives. In its report dated 1 February 1993 it said: "... sponsoring international terrorism and separatist subversion is not new to Pakistan. Since the 1970's Islamabad has been training Sikh and other Indian separatist movements as part of (former Prime Minister) Zulfiqar Ali Bhutto's strategy of 'forward strategic depth'". It added: "Having witnessed the initial impact of the Islamist message in Indian Kashmir, Islamabad began to broaden its horizons and set its sights on bigger goals. Thus, in 1986, with growing experience with training, organising and running the Afghan Mujahideen and with military supplies available (through US, Saudi and other foreign assistance), Pakistan began expanding its operation to sponsor and promote separatism and terrorism primarily in Kashmir, as a strategic long-term programme".

Even former Pakistan Army Chief General Mirza Aslam Beg confessed, in November 1991, to well-known US

journalist and Carnegie Endowment Scholar Selig S. Harrison, that right from 1986 onwards thousands of ISI-trained Kashmiris were being sent to Afghanistan for battle inoculation and subsequent return to fight in the Valley. Further substantiating the facts was the noted Pakistan journalist Mushahid Hussain, writing in Pakistan's *Frontier Post* on 29 May 1991: "... The approach which Pakistan has apparently adopted is an 'Afghan model'; essentially a protracted war, which has made Kashmir into a bleeding wound for India."

According to the US House Republican Research Committee's Task Force paper of 21 May 1994, entitled 'The Kashmir Connection', as the rivalry between India and Pakistan has intensified, perhaps no other region has taken on the significance of Kashmir. That province is unique among all the crisis points along the Indo-Pakistani border in that it is not just an area of strategic and economic importance, it is also the object of the ideological passions of various states in the region. For Islamabad, the liberation of Kashmir is a sacred mission, the only task unfulfilled since the days of Pakistan's founder Mohammed Ali Jinnah.

However, the paper continues, Kashmir is equally important in that it serves the domestic interests of the Pakistani Government in three crucial respects. First, tension over Kashmir creates a diversion from frustrations at home. Second, the Kashmir cause allows Islamabad to rally the support of Pakistan's Islamist parties and their loyalists in the military and the ISI, and third, it serves the regime as an important access point to the markets of Central Asia.

Additionally, the paper states, the Armed Islamic Movement, as well as several supporters of self-styled Islamist causes, put Kashmir high on their list of *jehads* to be fought. This is not only because of Kashmir's aforementioned material and 'spiritual' importance, but also because it is seen as a relatively easy target. Being geographically isolated and chock full of weapons and terrorist cells, many ultra-Islamist groups believe that the wresting of Kashmir from India would be a great prize acquired at minimal cost, and would inspire their followers elsewhere in the world.

Whatever the validity of such an assumption, all the organisations engaged in Kashmir have large, highly trained and well-equipped forces. There exists an environment in which ideological zeal and strategic and political considerations have coalesced. Specifically, as already noted, Pakistan needs Kashmir as a distraction from its domestic problems. Various terrorist 'Afghan' groups are chomping at the bit to move, awaiting only a wink and a nod from the ISI and others willing to finance the effort.

Thus, the Task Force's paper feels it is safe to assume that the fighting in Kashmir will escalate significantly, with numerous additional highly trained and well-equipped Mujahideen, many of them professional special forces and terrorists, joining the fight and spreading the struggle into the rest of India. There are already in place extensive stockpiles of weapons as well as large sums of money to sustain and support such a conflict.

Consequently, apparently reassured about the steadfastness of support, Islamabad has acknowledged openly the futility of its negotiations with India over the Kashmir issue. At the same time, Pakistani Prime Minister

Benazir Bhutto has begun to accede to demands from her military leaders for further increases in the Pakistani defence budget.

The Task Force report goes on to state that the rising militancy of Pakistani officials is far from empty rhetoric, for Islamabad has used the increasing tension in Kashmir as a pretext for expanding its terrorist training and support system for operations in Central Asia and elsewhere in the world.

To that end, the ISI has established the Markaz Dawat-ul Arshad (MDA), a centre for world-wide Islamist activities. Moulvi Zaki, the centre's spiritual leader, has told the trainees that their destiny is to fight and liberate "the land of *Allah* from infidels" wherever they might be. The commanders and instructors at MDA are Arab Ikhwan-ul Muslimeen members, primarily from Algeria, Sudan and Egypt, and most of them have more than a decade combat experience in Afghanistan.

In early 1992, some of these 'Afghans' were transferred to Pakistan-occupied Kashmir (POK) where new camps were being built for them by the Pakistani Army. By early 1993, there were over 1,000 'Afghan' Mujahideen in the MDA alone. Following the completion of their advanced training, the 'Afghans' were sent to Kashmir, Algeria and Egypt. Furthermore, Islamabad's claims to the contrary notwithstanding, the main offices of the Islamist terrorist organisations have remained functioning in Peshawar.

In addition to these transfers, a series of 'raids' by the police since October 1992 resulted in the shifting of some 200 terrorist operatives, including some wanted by Western police officials, to facilities near Jalalabad, just across the

border in Afghanistan. Indeed, in the fall of 1993, an Arab 'Afghan' with firsthand knowledge of the situation confirmed that Pakistan had "pushed them out of the door only to open a window for them to return and they come and go as they wish in Peshawar".

In the meantime, in the summer of 1993, the ISI had in the MDA another force of some 200 Afghans – mainly Jallaluddin Haqqani's people from the Khost area – operating under its direct command and earmarked for special operations in Kashmir.

According to Muhammed Fazal al-Hajj, a terrorist belonging to the Popular Front for the Liberation of Palestine (PFLP) captured in southern Kashmir in the summer of 1993, additional 'Afghans' and Afghan nationals were known to have been organised in one camp, where they were trained by the ISI to augment and provide a leadership core for the Kashmiri Hizbul Mujahideen (HM, one of the most prominent and lethal of the pro-Pakistan groups in J & K). There was also a corresponding expansion of the preparation of Islamist terrorists for operations in forward bases in Kashmir, with some 600 terrorists, about half of them veteran 'Afghans' and Afghans, already at the final phase of their training.

Indeed, many Arab volunteers continue to arrive in Peshawar almost every day. The preferred port of entry is Karachi airport. There, a special department run by a Major Amir – an ISI major with Afghan experience 'turned' Director of Immigration at the airport – oversees the volunteer's 'proper' entry into Pakistan and quick despatch to Peshawar. The main Ikhwan facility is the Mukhtaba-i-Khidmat (Services Offices), which was originally established

by the late Shaykh Abd Azzam and is now run by his successor Shaykh Muhammed Yussaf Abbas. The Mukhtaba-i-Khidmat still process volunteers for the Ikhwan, but at present many of the volunteers are despatched to the numerous training camps run by Arab 'Afghan' militants inside Afghanistan. The ISI continues to provide the weapons and expertise necessary to support this operation.

This growing direct involvement is important becasue the main operating bases for the ISI's activities in Central Asia are in Afghanistan. The origins of this arrangement run back to the aftermath of the fall of Kabul. At that time, many Arab 'Afghans' returned to Peshawar where they were organised by the Pakistani Government to support various Islamist causes. Many of these fighters later returned to Afghanistan as quality forces or to serve in personal guard details.

According to the Task Force, the ISI provides these terrorists and others with new weapons. For example, in the summer of 1993, the Kashmiri Mujahideen were provided with powerful long-range missiles called 'chemical missiles' by the Sikhs who had learned about them while undergoing training in Pakistan. At that time, the Kashmiri and ISI crews were being trained in the use of these missiles in POK. In fact, these are *Saqr* missiles which were developed in the 1980s with the help of the USA for use by the Mujahideen in Afghanistan.

Subsequently, there has been a significant expansion in the smuggling of quality weapons from Pakistan into Kashmir and, as of late 1993, there has been a corresponding change in the tactics used by terrorists, including the use of hit-and-run strikes by highly trained and well-

equipped detachments. Among the new weapons now used in Kashmir are 107 mm rockets, 60 mm mortars, 40 mm automatic grenade launchers (Soviet and Chinese models), a modification of the 57 mm helicopter rocket pods with solar-powered timing devices for the delayed firing of rockets, and LAW-type, tube-launched anti-tank missiles (Soviet and Chinese models).

In addition, the terrorists have also begun using sophisticated communication systems including small radios (systems with frequency hopping, selective broadcast, digital burst communications, etc.) and collapsible solar panels for reload systems, as well as frequency-scanning devices for detecting and homing in on military type broadcasts. All the communication systems are of NATO/US origin, with some components made in Japan. All these systems have been used by the Mujahideen in Afghanistan, having been provide via the ISI.

On top of all of this, there has been a large increase in the quantities of small arms provided to the Kashmiris, including type 56 automatic rifles (Chinese AK-47s), several types of machineguns, long-range sniper rifles, pistols and rocket-propelled grenade launchers, all of Soviet and Chinese manufacture. Also, some of the Kashmiri terrorists have begun receiving highly specialised weapons for assassination projects.

Pakistan not only made its land available for providing arms training and motivation, along Islamic fundamentalist lines, to Kashmiri youth, under the direct supervision and control of its Army and Intelligence agencies, but has also been liberally arming them with sophisticated weapons and financing the ongoing militancy in J & K since 1988, which

has led to the present turmoil and miseries of the people of J & K. In the initial stage of the militancy, Pakistan had even promised the secessionist leaders direct military intervention to 'liberate' J & K after the 'movement' picked up. Since the beginning of the movement, the Pakistan Government and various fundamentalist organisations like the Jamaat-e-Islami (JEI) (Pakistan) and the JEI (POK) have also been trying to enlist the support of the international community, particularly in Islamic countries, and succeeded considerably in mobilising liberal financial help for the ongoing militancy in Kashmir.

In addition to financial help obtained from some countries, the need for sending well-trained mercenaries to Kashmir to take part in terrorist activities there had been under consideration of the ISI. Muzzafar Ahmed Shah, Chief Military Adviser of the pro-Pakistan Tehriq-e-Jehad Islami (which later merged with another pro-Pakistan group, the Hizbul Mujahideen), discussed this issue with POK JEI leaders Abdul Rashid Turabi and Masood Sarfaraz, and with ISI officials as early as August 1988. Some of the foreign nationals came to Kashmir Valley mainly to assess the ground situation and went back. A few of them, however, stayed back in order to organise the Kashmiri militant groups. The second half of 1992 witnessed a well-planned and coordinated effort by Pakistani agencies to send the foreign mercenaries to Kashmir.

By the end of 1992, various militant organisations had suffered considerably at the hands of security forces and demoralisation surfaced in the militants' rank and file. The pro-Pak militancy, which started the militancy in Kashmir, had been by and large, tamed, subsequent to the arrest or

killing of most of its important leaders by the security forces and due to continuous onslaught from the Hizbul Mujahideen against its cadres, with active support from the ISI. Most of the other outfits, like Al Jehad, Al Barq, Ikhwan-ul-Muslimeen, Al Umar Mujahideen, Operation Balakote, Allah Tigers and Hizbullah, were also in shambles following the neutralisation of most of their top militants. The Hizbul Mujahideen, which emerged as the strongest militant outfit in 1992, also suffered very badly with the arrest or killing of many of its top and middle ranking militants, particularly during the second half of 1992.

The demoralisation caused in the militant organisations became a cause of considerable worry for the ISI, and the second half of 1992 saw systematic propaganda regarding the arrival of Muslim mercenaries in Kashmir to help their 'brethren' in *jehad*. Despite a tight vigil on the line of control (LOC) between the two countries by the Indian security forces, a good number of foreign nationals managed to infiltrate into the Kashmir Valley. The propaganda was basically aimed at holding up the sagging morale of the Kashmiri militants and secessionist leaders. These mercenaries, who arrived in 1992, instead of taking part in the actual fighting against the security forces, were used mainly to impress upon the people and the newly recruited militants that their well-trained brothers from across the border had already arrived, and that they had nothing more to worry about. Some of these foreigners also provided training to the freshly recruited Kashmiri youth, who had of late found it difficult to cross the border into POK.

The fall of the Najibullah Government in Afghanistan and the victory of the Mujahideen there strengthened the

belief that the 'liberation' of Kashmir was also feasible through armed struggle and by involving the Afghanistan war veterans. After the success of the so-called *jehad* in Afghanistan, many of these Mujahideen became redundant; a need for their 'proper utilisation' became an important task for the ISI, which, as we have seen, had been planning, supervising, monitoring and controlling the 'movement' in Afghanistan as well.

Mushtaq Ahmed Shah, the Chief Commander of the Al Barq, revealed to the authorities that sometime in October-November 1992, when Abdul Ghani Lone, a leader of the J & K Kull Jamaat Hurriyat Conference, visited Teheran, he discussed the question of sending trained Muslim mercenaries to Kashmir with ISI officials and important functionaries of the MDA. The ISI promised to provide the required financial help for this project.

The actual arrival of foreign Muslim mercenaries in large numbers in the Kashmir Valley commenced after the melting of snow in April 1993. The pro-Pakistan Hizbul Mujahideen, the Al Barq, and the pan-Islamic Harkat-ul-Jehad-e-Islami and Harkat-ul Mujahideen were the main militant organisations which started bringing the mercenaries in large numbers. By the end of 1993, an estimated 800 foreign mercenaries, mainly from Afghanistan and Pakistan, with a few from other countries had arrived in the Valley and taken control of terrorist actions. These foreign mercenaries planned and led the attacks on the security forces, leading to fierce encounters on numerous occasions, and to an increase in casualties inflicted upon the security forces as well as civilians. The foreign mercenaries started adopting newer and more

difficult routes for infiltration into the Valley. These foreign nationals, in addition to providing leadership during attacks on the security forces, established training camps in the Kashmir Valley itself, to provide arms training to newly recruited Kashmiri youth. In September 1993, a huge training camp of the Harkat-ul-Jehad-e-Islami, with a tarred physical training/parade ground, well-protected bunkers and high quality training equipment, was detected in the Kapran area of Anantnag district in south Kashmir.

The arrival of foreign mercenaries, however, increased the misery of the people: the increased attacks on security forces led to a larger number of cross-firing than ever before, which was the cause of a greater number of civilian casualties. There was also an increase in the atrocities committed on Kashmiri women by the mercenaries. By the end of 1993, some of the foreigners even went back as they were not getting 'enough cooperation' from the local population.

The infiltration of foreign mercenaries continues in 1994. The MDA has undertaken a project to send more war veterans to Kashmir, having been liberally financed by the ISI. Besides the MDA, the pan-Islamic Harkat-ul Ansar and the pro-Pakistan Hizbul Mujahideen and Al Barq have recruited a good number of war-hardened Muslim mercenaries to be brought to Kashmir during the current year. The border in the Jammu region of the State and some difficult-to-reach high ranges, particularly Doda district in Jammu, are under increased use for sending these foreign nationals into Kashmir. By the end of June 1994, about 1200 foreign nationals, half of them Afghans (followed close behind by Pakistanis), are estimated to be operating in the

Kashmir Valley and Doda. Since 1991, 42 foreign mercenaries have been arrested in J & K for their involvement in militant activities, and 154 have died in various encounters.

The infiltration into the Valley continues. During the period 16 March 1994 to 15 August 1994, there were 19 infiltration attempts that the security forces intercepted and foiled; it is estimated that many more attempts have succeeded. During these operations, 86 terrorists were killed and 32 apprehended; 191 weapons, including Kalashnikov rifles, Universal Machineguns, rockets and rocket launchers, and 184,695 rounds of ammunition were recovered. Four security personnel were killed and 11 injured during this time.

The world has paid a heavy price each time it has blinked at the terrorist meance by pretending that it is someone else's problem. It cannot afford the blinkers any more. Terrorism feeds on its victims' blood and fear. Each successful act of terror gives wings of ambitions. And such flights have scant respect for national boundaries. When the guns shatter the peace of Kashmir, they are a warning to other peaceful parts of the globe.

5

The Road to Hazratbal

Standing on the bank of the Dal Lake on the northern outskirts of Srinagar is the Hazratbal shrine complex. The centrepiece is a mosque, whose imposing dome and towering minaret make it a magnificent structure of gleaming white marble. Its majesty is enhanced by the backdrop of nearby snow-peaked mountains and by the awe-inspiring silence that seems to emanate from the profoundly still lake.

Kashmiris hold this shrine in great reverence as the house of a holy relic, the *moi-e-muqqadas*, a strand of hair that came from the head of the Prophet of Islam. It is said to have come into the possession of Mughal Emperor Aurangzeb through a series of accidents and adventures. He apparently had a dream directing him to take it to the

Valley where it would be kept, and so, in A.D. 1700 the relic came to Kashmir. The strand is suspended in a vacuum in a glass vial, and is displayed to devotees on ten special occasions during the year, each known as *Deedar.*

The fact that the relic is something special was vividly demonstrated to the world when, on 26 December 1963, the vial containing the sacred relic disappeared. Widespread violence followed. A rumour was circulated that former Prime Minister Bakshi Ghulam Mohammed, who had taken over Jammu and Kashmir after Sheikh Abdullah was deposed in 1953, was responsible for the theft of the holy relic. Even though it was the middle of a harsh winter, crowds from throughout the Valley converged on Srinagar and expressed their ire at the Bakshi family. Bakshi's cousin Abdul Rashid begged the crowd to disperse. They turned on him and he had to be rescued by the police. The crowds set fire to property belonging to Bakshi's brother Abdul Majid, and in retaliation the police fired at the crowd, killing three persons.

Prime Minister Shamsuddin, Bakshi's confidant and successor, returned from the winter capital Jammu, but could not leave home because of hostile crowds. He was too closely identified with his mentor, who, in turn, was being held responsible for the erosion of Kashmir's autonomy. The crowds shouted pro-Sheikh Abdullah slogans and demanded his release. Radio Pakistan and stray pro-Pakistan elements in the Valley had a field day, calling for *jehad* against "the Hindu rulers of India who had outraged Islam".

The crisis gathered momentum, and a mass protest developed against the way Kashmir was being ruled. For more than a week, a total *hartal* (strike) paralysed Srinagar.

Sloganeering crowds filled the streets, and the administration was clueless on how to handle them.

And suddenly, just as mysteriously as it had disappeared, the relic reappeared. Public pressure forced the administration to allow 14 clerics to identify the *moi-e-muqqadas* as genuine. They did so, and peace returned to the Valley.

The importance of Hazratbal was not lost on the political leadership of Kashmir. Sheikh Abdullah used it as the base for his National Conference activities, using a not very subtle way to oppose the pro-Pakistan Awami Action Committee, led by Moulvi Mohammed Farooq. The popular Moulvi, who was himself gunned down by pro-Pakistan terrorists in 1990, used the Jamia Masjid in the heart of downtown Srinagar as the base of his committee's activities. When terrorism took centre-stage in the Valley after 1989, the JKLF, whose ideology seems the most popular of all the terrorist outfits in the Valley, used the Hazratbal shrine to defy the authorities and address large Friday prayer congregations, to instigate mass action.

During 1992, the JKLF suffered decimation in its ranks. The heavily armed and fundamentalist pro-Pakistan Hizbul Mujahideen emerged the most lethal of the terrorist organisations. They were still unable to gain any mass support, and during 1993, set their sights on capturing the Hazratbal shrine in a dramatic effort at creating a popular base.

It was not only the shrine that was a terrorist haven, but also the entire Hazratbal locality remained a headache to the authorities. In particular, the two educational institutions flanking the shrine, the Regional Engineering

College and Kashmir University, became hotbeds of militancy.

In October 1993, the security forces started an operation to flush the terrorists out of the area. The pressure from the searches forced terrorists hiding in the REC and the university to seek refuge in the Hazratbal shrine.

It was against this backdrop that on the evening of 15 October 1993, the authorities received a message from the J & K Armed Police contingent stationed inside the shrine complex compound that several militants were inside the mosque. This was expected, but what was not was the message that followed: that the militants, cornered by the security forces, were trying to get at the sacred relic.

The administration was alarmed: December 1963 had shown the potential for disturbances that Hazratbal could trigger off. It got in touch with the Muslim Auqaf Trust, the traditional custodians of the shrine, and a member of the trust filed a complaint with the police that the militants had tampered with two of the three locks on the door leading to the room where the relic was kept.

The State Government swung into action, and the para-military Border Security Force (BSF) was asked to lay a cordon around the shrine premises. That night the BSF surrounded the complex, and an hour later they were replaced by the Indian Army, which sent word to the terrorists inside to surrender and come out of the shrine.

The administration also decided that it would not undertake an operation to storm the shrine. This decision was to be severely criticised by many sections in the next 32 days. The government would be chided for not having quickly taken action within hours of hearing that there was

damage to the mosque, and many would point to precedents around the world where elite commandos had undertaken similarly delicate operations. A favourite parallel cited was the storming operation undertaken by the Saudi Arabian armed forces at the holy Ka'bah, Islam's holiest place of worship, in 1979, when a group of armed militants led by a preacher took over the Ka'bah and called for an overthrow of the Saudi monarchy. The storming operation is believed to have come after protracted negotiations failed, and lasted a few hours, although the Saudis never publicly disclosed the details.

At Hazratbal the authorities could not storm the shrine on the night the standoff started or later, for several reasons. Firstly, the militants were armed, but it was uncertain how much hardware they possessed. Secondly, a number of innocent pilgrims had been trapped inside the shrine when the siege was laid; their lives could not be endangered. Thirdly, there was the danger that precipitate action could lead to the unthinkable – damage to the *moi-e-muqqadas.*

Although the Army pointed out that a clean operation could be carried out within minutes by use of a gas to stun the militants, thereby preventing any damage even to the shrine itself, they acquiesced in a decision to wait for the militants to give themselves up. Perhaps the experience of the 1984 Operation Bluestar, in which an army storming of the Sikh's holiest place, the Golden Temple in Amritsar, resulted in damage to the complex and only compounded the problem of Sikh militancy, made the authorities extra cautious.

The terrorists refused to come out, instead warning the Army that were anything to happen, the government would

be held responsible. They gave a call for a strike in the entire Valley, and for the next five weeks, Kashmir remained virtually stunned and paralysed.

The government started negotiations with the militants, sending a team headed by the widely respected young IAS Officer, Wajahat Habibullah. The slow process of trying to find a way to end the standoff began between the government's representatives and hooded terrorists at the main gate to the shrine complex. At the same time, the Army decided to draw the militants out by making life 'uncomfortable' for them. They would cut off electricity and water supply to the holed-up terrorists, and would prevent any food from being sent to them. Then they would wait for the terrorists to give up and come out peacefully. "... It will get progressively worse," declared Corps Commander Lieutenant-General Padmanabhan. "And I have infinite patience."

The government wanted this strategy to work, not only for the safety of the shrine, but also to vividly put across the message to the people of Kashmir that the government could be reasoned with, that it was not a ruthless monolith looking for quick solutions, that it was humane. As it would eventually turn out, the strategy paid off.

In the meantime, however, pressure mounted. During the first week of the standoff, there were daily demonstrations in Srinagar, and violent confrontations between the police and agitated residents. Former State opposition politicians, who had come together to form the Kull Jamaat Hurriyat Conference, an omnibus organisation of overground bodies of terrorists' organisations, called for processions for the first Friday after the standoff began.

Friday is the day that Muslims congregate in large prayers for traditional afternoon prayers, and due to the occupation of the Hazratbal shrine, such a gathering could not be allowed. Despite a curfew by the administration, there were calls to defy the ban and march towards the shrine. Attempts were made to make people believe the worst about the government's intentions.

Tension built up in the days leading to 22 October 1993, with the result that it was a day of pitched battles and confrontations all over the Valley. In Srinagar, residents gathered in many places to confront the authorities, and were tear-gassed repeatedly by security forces. It was a nightmarish experience without end. In Bijbehara in Anantnag district, some paramilitary officers lost their cool and fired into a crowd, killing 37 people.

It was a day of great depression throughout India. International opprobrium was heaped upon the government. Pressure built up within the country for quick action. Now, more than ever, there were calls to storm the shrine and end the matter.

Things looked bad for the government, held to ransom by a bunch of terrorists, who were found to be in touch with Pakistan through powerful wireless communication devices. On 29 October 1993, a functionary of the USA's State Department in Washington told correspondents in a background briefing that the USA did "not recognise the instrument of accession as meaning that Kashmir is forever a part of India. There were many other issues at play in that time frame as we all here know".

This remark stunned India. Firstly, it was seen as a shift in the US stance, tilting more towards Islamabad and away

from New Delhi. Although it may have been aimed at Pakistan's new Prime Minister Benazir Bhutto, who had come to power for the second time, the negative impact in Kashmir, where India was locked in a war of nerves with terrorists, was incalculable. The terrorists were able to effectively put across their message that even the sole remaining superpower was on the terrorists' side, that the US had legitimised murderous attacks on the Indian State and individuals in Kashmir, and that it was encouraging Pakistan to continue supporting and sponsoring the movement.

Many observers felt that the statement could also be read as questioning the very sovereignty of India, for instruments of accession signed by the major Princely States which joined India were similar to the one that Maharaja Hari Singh had signed. India's independence was being questioned by the USA; the statement had far-reaching legal and political implications.

Despite clarifications by the US Government, the damage had been done. Terrorism in the Valley had been given a boost. Pakistan encouraged the terrorists inside Hazratbal shrine to hold out, telling them that 'salvation' from India would come at any moment. It also applied diplomatic pressure on New Delhi, making daily taunts about India's human rights record, telling the rest of the Islamic world that India was determined to defile Islamic shrines. Needless to say, domestic pressure on New Delhi to bring the matter to a clean and quick end increased.

The State administration, however, did not succumb to the pressure and continued with its strategy. As a measure of confidence building between the chief negotiator

Wajahat Habibullah and the militants, it decided to overrule the Army and allow some food to be sent into the shrine. The Army was uncomfortable at what they thought was the undermining of their strategy to wear out the terrorists and force them out to surrender. The administration remained steadfast, and on 24 October sent in 35 kg of meat, a tubful of rice and traditional Kashmiri bread. The hungry inmates were more inclined to trust Habibullah after this gesture. For good measure a doctor was allowed to go inside and treat the ill among pilgrims who had been trapped.

The concern for the innocent people from an administration which should have been most interested in getting the shrine cleared as early as possible can only point to an inescapable fact: the well-being of the pilgrims – their human rights – were a priority. It was not their fault that the terrorists had tried to desecrate the holiest of their shrines.

In the meantime, the Srinagar Bar Association and the Auqaf Trust filed a writ petition at the State High Court asking that food be allowed for the people inside the shrine and their electricity and water supply be restored, as this act of cutting off the supply was in violation of their constitutional rights. The court directed the administration to provide food.

What the administration intended as a one-time measure to break down the nerve of the holed-up terrorists, the State High Court ordered to be turned into a regular routine. The Army was dismayed; *jawans* watched gloomily as 12 tubs of rice and 50 kg of meat, milk, curd, tea and oranges were sent into the shrine complex. The terrorists shouted slogans of defiance.

The Army allowed one instalment of food, and then put their foot down. Nothing doing, they said: let the Supreme Court of India decide the matter. And so it did. The Supreme Court ensured that the delivery of food became a regular feature, vividly demonstrating the apex court's independence and its role as a watchdog to ensure that the citizen's fundamental rights, as guaranteed by the Constitution of India, were not denied even in such extraordinary situations.

The State Government was even accused of holding the State High Court in contempt by not ensuring regular delivery of food after that initial delivery. The high court obliged and directed that food be served to all. The State Government approached the Supreme Court to stay the order, arguing that the matter was "a serious and delicate problem relating to the integrity of the country and it had to take adequate measures to rescue the hostages besides flushing the militants out". It said, in effect, that the administration be allowed to starve the terrorists out of the shrine.

The Supreme Court would have nothing of this since innocent people were concerned. On 2 November it ordered that food be sent to the hostages inside the shrine. It also directed that bottles of drinking water be provided, and that sufficient quantities of water to keep the sanitary facilities clean be given rather than restoring water supply. As for the electric supply, the court ordered that candles be given for the hostages' use, or that floodlights be installed outside the shrine so that the mosque could be illuminated. This was necessary, the Supreme Court observed, since as many as 21 people had fallen sick during

the now three-week-long crisis, and they might require medical attention at night.

The Supreme Court further directed that food packages prepared under the supervision of authorities be served to small groups of people ranging from five to ten persons at the iron bar fencing of the shrine complex, or any other place considered suitable by Habibullah.

It also asked the authorities to ensure that the food packages contained rice, dal, chapatis or *parathas* or *nans* and one vegetarian item, the nutritional value of which should not be less than 1,200 calories. Drinking water should be supplied along with the food in small plastic bottles, the judges added. The apex order concurred with the State High Court order asking Srinagar's Chief Medical Officer to visit the shrine daily between 10 a.m. and 12 noon to provide medical assistance to the inmates.

Nowhere in the world has the highest court of the land directed a government to act in this manner. If there was any doubt about the guarantee of a citizen's fundamental rights in India, there could have been no better litmus test.

Eventually, the terrorists were worn out. On the night of 14 November 1993, three terrorists came out and surrendered. Late into the next night, the rest sent a message to the authorities that they were ready to come out. So, in the wee hours of 16 November 1993, 35 civilian hostages, 27 militants and two Pakistani terrorists, came out in batches of three. A few days later the *hartal* was lifted in the Valley, and the people's five-week-long misery was over. The people were exhausted, and not just by the standoff: Hazratbal helped them focus on their exhaustion with the militancy that had disrupted their lives and livelihoods since

1989. Not surprisingly, having witnessed the government's patience and humane attitude during the potentially explosive crisis, ordinary Kashmiris started privately murmuring about searching for a peaceful way out of the imbroglio.

The government's resolution of the Hazratbal crisis stood in stark contrast to the denouement of a similar problem that the US authorities in Waco, Texas, faced earlier the same year, on 19 April 1993. A 51-day standoff between US Federal agents and members of a religious cult called the Branch Davidians began with the death of six persons and ended in the massacre of 86 persons, including 17 children. The tragedy was triggered off when the authorities stormed the compound where the cult members were holed up and fired shells of tear gas. Survivors claimed that the Federal agents had set off a fire during their assault that rapidly spread throughout the entire compund due to 30 mph gusts of wind.

So, in comparison, one would have to admit that the Indian Government did a competent job. Even the Americans were impressed: Pentagon officials called up the Indian Embassy in Washington to congratulate them and to say they were interested in studying how India handled the month-long battle of nerves. US Secretary of State Warren Christopher sent a letter to Prime Minister P.V. Narasimha Rao, saying "he was pleased to learn" that the latter had "succeeded in ending the standoff at Hazratbal mosque in Srinagar without any bloodshed or damage to the shrine itself".

Yet this was not the end of the Hazratbal story. The episode provided a chance to India's recently established National Human Rights Commission (NHRC) to prove itself.

The NHRC was set up through an Ordinance in late 1992, and confirmed by an Act of Parliament in 1993. Interestingly, the government had to make several modifications in the establishment of the commission, since, in the original proposal, made in early 1992, opposition politicians, journalists, and human rights activists felt that it did not have enough independence from the government.

New Delhi decided to hold widespread consultations while formulating the proposal for setting up the commission. A series of seminars were held in all parts of the country, bringing together law experts, academicians, human rights activists, police officers, bureaucrats and NGOs to thrash out the matter. In the end, it was agreed that the original proposal to have serving bureaucrats as members of the commission would be discarded; a retired Chief Justice of the Supreme Court would be appointed Chairman, and eminent persons known for their activities in the field of human rights would be the other members. It would be given *suo moto* powers of investigation. It had the power to scrutinise departmental action by the armed forces against erring officers and make recommendations.

A Standing Committee of Parliament for Home Affairs thoroughly deliberated upon the Bill for the Protection of Human Rights, which set up the commission. Nonetheless, for some unfathomable reason, Amnesty International's 1994 Annual Report chose to "criticise the severe limitations placed on (the commission's) powers, mandate and methodology". In any case, the commission was set up.

The National Human Rights Commission began an inquiry into the incident at Bijbehara on 22 October 1993, on the basis of press reports indicating that some 60 persons

had died and several wounded as a result of an action conducted by the armed forces. Notices were issued on 1 November 1993 to the Ministries of Defence and Home Affairs of the Central Government, and to the authorities of the State Government directing them to place before the commission complete and detailed reports on the incident within two weeks from the date of the notices.

On 13 November 1993, the Ministry of Defence sent a letter to the commission indicating that it was not involved in any manner in the incident and therefore had no comments to offer. Two days later the Ministry of Home Affairs sent a communication to the commission requesting further time for the submission of its report, as it was yet to receive reports from the Border Security Force (BSF), the force involved in the incident, as well as from the State Government. An extension till the end of the month was granted, after which the commission said it would proceed on its own.

On 2 December 1993, the Home Ministry told the commission that 37 persons had died as a result of the firing and 73 others had been injured and admitted to various hospitals for treatment. They added that the State Government had instituted a magisterial inquiry into the incident, while the BSF had set up a staff court of inquiry, and asked for another extension as the reports from the two inquiries were expected shortly.

On 20 December 1993, the Ministry sent its report, and enclosed copies of the reports of the magisterial inquiry as well as a summary of the findings of the staff court of inquiry. The magisterial inquiry indicted 12 BSF personnel, including the deputy commandant, and recommended

dismissal of these persons. It also recommended the initiation of criminal proceedings against them. The staff court of inquiry, for its part, held 14 BSF personnel, including the deputy commandant, guilty of lapses. Further, the BSF authorities had indicated they proposed to launch proceedings for court martial under the BSF Act against those who had been so identified in the report of the staff court of inquiry.

While the magisterial inquiry concluded that the firing by BSF personnel was unprovoked, the report of the staff court of inquiry concluded that the firing by BSF personnel was by way of retaliation to provocation. Depite this difference in view, both the magisterial inquiry and the staff court of inquiry concluded that excessive force was used by the BSF personnel.

In analysing the documents before it, the commission found that the magisterial inquiry had not recorded any evidence as its proceedings had been boycotted by the people of Bijbehara. On the other hand, the commission noted that, according to the summary of the findings of the staff court of inquiry, the latter had recorded the evidence of six witnesses. The NHRC thus requested copies of that evidence. Perusing them the commission concluded that it would be appropriate to proceed with the matter and made its recommendations.

The evidence collected in the inquiry showed, *prima facie*, that a sizeable group of local residents gathered after Friday prayers at the Jama Masjid and moved from there to the national highway, where they were accosted by a unit of the BSF comprising 47 personnel. The evidence provided to the staff court of inquiry by those who were in

the procession states that there were no armed militants in the crowd, the members of which were shouting political slogans and slogans against the siege of the Hazratbal shrine by the defence forces. With the exception of one witness, out of the six whose evidence was recorded, none of the other witnesses referred to any altercation between the people in the crowd and the armed forces. The witnesses stated that the people in the crowd were unarmed, and that the firing by the BSF on the crowd was without warning.

The commission noted that while it was deeply conscious of the difficulties facing the armed forces in combating terrorism, as well as the fact that firm measures were often required to contain and control acts of terrorism, it said it could not condone the firing of live ammunition into an unarmed crowd of citizens simply because the latter were shouting slogans and complaining against the conduct of the armed forces.

The commission was conscious of the fact that, on the basis of the magisterial inquiry report, steps were to be initiated to prosecute the members of the BSF, including the deputy commandant on duty on that occasion. Further, disciplinary proceedings were initiated under the BSF Act against 14 members of the force, including the deputy commandant; thus the commission said it expected that the dual proceedings would be pursued to their respective logical ends.

The NHRC also made two recommendations: firstly, that while the loss of life cannot be adequately compensated in monetary terms, in order to provide assistance to the kin of the deceased and those injured by gunshot, payment of Rs 50,000 was to be made to each of the former, and

Rs 25,000 to each of the latter. Other persons injured in the incident were to receive payment of Rs 10,000 each.

Secondly, it recommended that given the gravity of the occurrence in Bijbehara, a thorough review should be undertaken by the government of circumstances and conditions in which the units of the BSF are deployed and expected to operate in situations involving only civilian populations.

Goaded by this, the Home Ministry swung into action. Court martial proceedings were started. Criminal charges against the BSF personnel were filed and charge-sheets were expected in due course. By way of compensation, the State Government disbursed *ex-gratia* relief of Rs 100,000 to each of the next of kin of the civilians found by the magistrate to have been killed in the incident. Smaller amounts were given to the 75 injured.

The Central Government specially directed the BSF Director-General, notwithstanding the extremely complex and difficult environment in which the BSF personnel were required to operate in the State, to take all necessary steps to ensure that no unit or formation of the BSF resorted to the indiscriminate use of force. Consequently, the BSF headquarters took a number of steps in that direction.

Following a review by the BSF chief, he noted that the terrorists were mostly operating from the urban/built-up areas and were mixed with the civilian population; the BSF, while tackling the militants, could not avoid involvement with the civilian population. Therefore, a number of steps were taken to ensure the proper safety of the civilians.

Firstly, the BSF training syllabus was updated to emphasise respect for human rights and humanitarian laws,

and how to deal with the public, particularly elders, ladies and children.

Wherever a cordon is needed and searches are to be conducted, the services of the magistrate, civil policemen and policewomen were to be requisitioned to help during such operations.

The number of supervisory level officers was increased and special emphasis was laid on their interaction with the men.

Efforts would made to increase the motivation of the troops to develop respect for human rights; among other things, a series of training files bringing out this aspect were developed.

Careful recruitment of supervisory officers of proven integrity and efficiency for internal security duty battalions was made.

Strict instructions were issued to ensure the adherence to the principle of minimum force.

Troops were to be changed or rotated after every two years to avoid stress and strain which may lead to over-reaction by them while dealing with such situations.

Preinduction training was to be given to each unit for a period of four weeks, before that unit's actual deployment on internal security duties.

To create a rapport with the public and secure support of the civilian population, the BSF has been establishing a number of dispensaries in the areas of their deployment to provide medical aid to civilians; assisting the reactivation of schools by providing them stationery items; and distributing essential commodities like kerosene oil, sugar, and so on to the needy population in the area of deployment.

The Ministry continues to update the National Human Rights Commission about the judicial progress in the cases against the BSF personnel. The entire Hazratbal episode showed that independent institutional arrangements exist in India to guarantee and safeguard each citizen's fundamental rights under the Constitution. This applies even to terrorists, as we shall see in the next chapter.

6

The Advent of a Terrorist

One of the most infamous Kashmiri terrorists in India is the president of the Jammu and Kashmir Liberation Front (JKLF) Yasin Malik. The acts of terror that he committed in 1989 and 1990 constituted a watershed for terrorism. The kidnapping of the daughter of India's then Home Minister was a sensational event which Malik engineered to complicate the situation in Kashmir. By his own admission, he had gone to Pakistan and underwent training in use of sophisticated arms which he used to kill at least ten persons. He is thought to be responsible for dozens of sneak attacks leading to other fatalities.

Yasin Malik became a rebel against the system on 26 July 1980, when he was merely a 13-year-old student

studying in the eighth standard. The incident that scarred his psyche involved an altercation between some taxi-drivers and some Army *jawans* at Srinagar's Lal Chowk. An Army driver was beaten up; his colleagues retaliated by thrashing anyone around. Malik narrowly escaped the wrath of the soldiers, and the next day he joined a mob which stone-pelted the police and set fire to a paramilitary jeep on Hari Singh street.

While still a teenager, he turned down a modelling offer from a German firm with which he worked. Instead, in the mid-1980s, he, along with a dozen like-minded friends, formed a party which, for want of a better name, was called the Tala Party. Soon after they formed the Revolutionary Front and had some material printed in Delhi. That led to the group's arrest and Malik was detained for four months. In 1986, the Islamic Students' League (ISL) was founded and Malik became its general secretary and Shakeel Bakshi its president.

When the Muslim United Front (MUF) was launched in the Valley to contest the 1987 State Assembly elections, the ISL was co-opted as a constituent. Malik and his close colleagues Ashfaq Majid Wani and Sheikh Hamid actively campaigned for a MUF candidate by the name of Mohammed Yusuf Shah. Shah was later to become the supreme commander of the fundamentalist pro-Pakistan terrorist group Hizbul Mujahideen. As the leader of this most ruthless and murderous outfit he is commonly known by his alias Syed Salahuddin.

In those elections Yusuf Shah, like most other MUF candidates, was defeated. Malik and his ISL colleagues were arrested and detained for about eight months. In

May 1988, Malik crossed the line of control into Pakistan, and received training in the use of arms in Pakistan-occupied Kashmir (POK). He and a number of other youngsters returned the following month.

The terrorists launched their offensive that September with an abortive attempt on the life of a Kashmir police deputy inspector general. The police officer's guards instead killed one of the terrorists, Aejaz Ahmed Dar. Most of the terrorists were rounded up by the police subsequently, although some others, including Malik, fled across the border back to POK.

Malik returned in February 1989, and struck with a bang on Nalla Mar Road, killing four personnel of the paramilitary Central Reserve Police Force (CRPF). People who had till then disbelieved that Kashmiri youth could take to arms were convinced that terrorism had arrived in the Valley.

Malik and his friends Hamid, Ashfaq and Javed Ahmed Mir founded and provided the leadership of the JKLF. In the beginning all four were area commanders of the JKLF, though Ashfaq was practically the leader. Following his death during a shootout with the security forces in March 1990, the JKLF was reorganised and Malik became the commander-in-chief. In 1992, the organisation was restructured and Malik was elected its first president.

The JKLF, which has its headquarters in Pakistan, was banned by the Government of India for obvious reasons. First and foremost, because it wanted to 'liberate' the State of Jammu and Kashmir from the Union of India The other reasons were: because it was organising Muslim youth and motivating them to obtain training in arms and

ammunition from Pakistan and POK for subversive activities in J & K; because it was creating a sense of fear and insecurity among the common people through terrorist and subversive acts by killing innocent persons, high dignatories, police officials, politicians and whosoever caused obstruction in its secessionist designs; because it was destroying public and private property by acts of sabotage, arson and other means; and because it was waging a war against the Government of India by launching armed attacks with sophisticated weapons on the security forces engaged in combating terrorism and subversion in the State.

Malik, in particular, was ruthlessly spearheading the terrorist movement in the Kashmir Valley in a bid to secure secession from India. To achieve this goal, he maintained close contacts with other terrorist outfits. He had been organising Muslim youth to go to Pakistan for training in arms, having himself crossed over to POK several times to learn how to use sophisticated weapons, explosives and ammunition. He had been procuring arms and ammunition in large quantities. He had also kidnapped or killed a substantial number of people.

On 14 September 1989, Malik and Ashfaq Majid cornered Tika Lal Taploo, an advocate and a prominent political worker of the Bharatiya Janata Party (BJP), at Chinkral *mohalla* in Srinagar. Taploo did not have a chance. He was gunned down in cold blood and left on the street, creating panic and terror among the local population.

On 1 December 1989, Malik directed Manzoor Ahmed Sofi and Mohammed Rafiq to murder Saiddullah Lone.

The next month, Malik was responsible for the cold-blooded murder of officials of the Indian Home Ministry.

In a premeditated action, Malik, Javed Mir Nalka, Mohammed Rafiq, Ahmed Sofi alias Munna Shalla and Javid Zargar went to the Hyderpora crossing on 25 January 1990, and fired with AK-47 rifles into a crowd, killing their intended targets, four Indian Air Force officers, who were innocently awaiting transport, and injuring 12 others.

On 2 February 1990, Malik and his associate, Showkat Bakshi, waited for the opportune moment before firing upon two paramilitary personnel standing at Chanpora, and while making their getaway fired upon a paramilitary jeep, injuring yet another *jawan.*

The most infamous case that Malik was involved in was the kidnapping of Dr Rubaiya Sayeed, the daughter of India's then Home Minister, Mufti Mohammed Sayeed, on 8 December 1989. She was kidnapped at gunpoint while waiting for a Matador at the bus stand near Laldeb hospital in Srinagar. The condition that Malik laid down for returning her: the release of five hard-core JKLF terrorists, including Abdul Hamid Sheikh, Javed Zargar and Sher Khan.

All of India expressed shock and indignation. State Chief Minister Farooq Abdullah returned from London; Union Ministers flew into Srinagar from Delhi; intermediaries, including journalists and officials, negotiated terms. Older members of the JKLF were extremely apologetic. They were embarrassed about kidnapping someone, and that too, an unmarried woman. Not surprisingly, the JKLF found that public opinion was

turning against it in the Valley; even opinion in sympathetic Islamic countries was disapproving of this act.

Dr Abdullah insisted that if the government accepted the terms of the JKLF, the country would suffer as "it would open the floodgates for the future and provide a boost to anti-national activities of trying to separate Kashmir from India". He and many others in Srinagar maintained that she would be released if the government was patient and held out.

The Home Minister was not convinced. He could not wait, and so five days after she was kidnapped, the Central Government directed the State to secure her release by freeing the five JKLF terrorists.

Rubaiya was freed unharmed, and the five militants were released and taken out in a procession in Srinagar before slipping across the line of control. It was a major and well-publicised boost for the JKLF and for militancy in general. There followed a wave of kiidnappings by terrorists around the country, notably in Assam and Punjab. The terrorists believed that freedom was around the corner and further stepped up their violent campaign.

The authorities responded to the crisis by flying in paramilitary personnel. Unfamiliar with Kashmiris and unprepared for such a campaign, they suspected all locals as potentially hostile. The local police were sidelined and thought of as unreliable. Information about terrorists started to dry up, as a result. Searches and interrogations, created increased sympathy for terrorists. Finally, by firing from crowded places and provoking the paramilitary to fire back, the terrorists were able to cause alienation of the local population.

Officials who were in Srinagar during those years believe that the kidnapping of Dr Rubaiya Sayeed was the turning point. Malik had succeeded in using terror to disrupt the lives of innocent people, depriving them of their fundamental rights to live peacefully and seek prosperity.

On 6 August 1990, while Malik was holding a strategy meeting with Sheikh Hamid and Kaka Hussain, a JKLF area commander, to devise further plans of subversion, he was caught in an anti-terrorist operation. He had seven AK-47 rifles, three pistols and one revolver in his possession. He was arrested and flown to Delhi where he was incarcerated.

Yasin Malik was charged with several murders, and was also charged in several cases under the Terrorism and Disruptive Activities (Prevention) Act – also known as TADA – a relentless law as far as terrorists are concerned. Bail is severely restricted: The Indian Government's experience with Punjab terrorists during the 1980s (before TADA was enacted) showed that it was common for many terrorists to get bail, go out and shoot the witnesses, and commit crimes even more heinous than the ones they were originally charged for. In this situation, a person with Yasin Malik's background would ordinarily not be granted bail, given the prevailing situation in Kashmir. He would be kept detained for the duration of the trial.

Yet, on 9 May 1994, the Supreme Court of India decided to respond to an appeal made by Yasin Malik's mother, Atiqa Begum, and granted him bail. On 16 May 1994, after all the necessary paper work was completed, Yasin Malik walked out of jail, flew to Srinagar, and

rejoined his organisation, the JKLF banned by the government.

The Supreme Court's decision was based on grounds of health. Yasin Malik's health was deteriorating. During the late 1980s he had contracted a blood infection. It was discovered that his heart had a damaged valve. Following his arrest in 1990, it was found that his heart was weak due to the damaged valve. He was constantly falling ill, and during his 1991 incarceration at Agra jail, there was a real fear that he might die.

In 1992, India's top heart specialists at the All India Institute of Medical Sciences, New Delhi, had to perform open-heart surgery on Malik to keep him alive. He subsequently was prescribed life-long medication, and was warned against strenuous activities, not that the warning stopped him. After his release he went to Srinagar, where his supporters took out a procession in his honour. When the procession finally reached his neighbourhood, he stood up to make a speech but collapsed due to exhaustion.

Yasin Malik's most basic human right – the right to live – was preserved by the government and a couple of dedicated, professional physicians. This right was further guaranteed by the Supreme Court of India, which found itself unimpressed by the arguments of the law-enforcing authorities, and true to its independent watchdog character, freed him so that his fundamental right to live – which he, ironically, denied many others during his career as a terrorist – was protected and safeguarded.

Not only that, but both the Supreme Court as well as the National Human Rights Commission have raised

several questions about the government's main legal weapon against terrorism, TADA itself. The Supreme Court, while upholding the constitutional validity of the Act, has ensured that no one is detained beyond the prescribed 180 days without due legal process initiated. It has also questioned various clauses, one relating to the vague and sweeping ambit implicating a person just for his or her association or contact with a terrorist, and another relating to the admissibility of confessions made in police custody in TADA cases, in departure from the general rule.

The National Human Rights Commission has gone so far as to call upon the Supreme Court to review its judgement on TADA's constitutional validity. The Government of India has taken a number of measures to ensure that TADA is not misused in the States for political purposes. Furthermore, on 19 August 1994, the Union Home Minister promised Parliament that his Ministry would undertake an extensive review of TADA, indicating that a possible overhaul of the Act was on the cards.

7

The Geneva 'Test'

Although Kashmir has always received special attention in political discussions in our country, it has never been in as sharp a focus as during the meeting of the Human Rights Commission in Geneva in early 1994. We have always seen Kashmir as an area of historical sensitivity requiring careful attention and nurturing. Indeed, the depth of emotions that Kashmir excites in all Indians contrasts sharply with recent attempts abroad to look at Kashmir in somewhat limited terms of political conflict and human rights.

Without meaning to undermine the legitimately growing importance of human rights in the modern world, it has to be said that Kashmir is too valuable for us to allow it to be sacrificed for someone else's exalted

perceptions of their own beliefs. Nothing could be worse for the tragic situation in which Kashmiris, especially the alienated youth, find themselves, than legitimisation of foreign interference and intervention based on questionable explicit or implicit motives.

Attempts to internationalise the essentially bilateral problem between India and Pakistan by the latter are familiar to everybody. In fact, for decades the litany of complaints by Pakistan fell on deaf ears till Pakistan discovered a convenient instrument in the blossoming concept of human rights. Consequently, the last meeting of the Human Rights Commission became a crucial test case for both sides. For Pakistan, it was a desperate bid to reach out for straws to salvage its sagging morale on the Kashmir issue. For India, it was important to preserve and protect Kashmir from this new kind of assault and, at the same time, to persevere in its attempts to keep the human rights movement unsullied by narrow political ambitions.

We have consciously tried to ensure that the word 'victory' is not used in the context of Geneva. We did not really go seeking a battle and nor do we want to describe the outcome in terms of 'our' victory and 'their' defeat, especially since it is a continuum and, in a sense, the beginning of a chapter. It will be described as a 'victory chapter' only if it takes us to the logical conclusion and actual accomplishment of peace in Kashmir. But till then it can best be described as one positive step in the vindication of our stand.

Winning teams owe a lot to the captain. We were led very ably by Shri Atal Behari Vajpayee, MP and former External Affairs Minister, who as the leader of the

delegation spent several days in Geneva at the beginning of the commission's proceedings and then returned for the very crucial, critical days of the countdown. Of course, the political leadership and foresight of Prime Minister P.V. Narasimha Rao were only partially reflected in the choice of the delegation. Beacon-like, he guided us from the distance. We were most ably assisted by some of the most outstanding minds in contemporary Indian diplomacy, namely, Hamid Ansari, Permanent Representative at the United Nations, Satish Chandra, Permanent Representative at Geneva, Ambassador Prakash Shah from Tokyo, MEA (Ministry of External Affairs) Secretary (West) V.K. Grover, and other officials. Brijesh Mishra, ex-Indian Foreign Service, and the redoutable Dr Farooq Abdullah completed one of the most formidable teams India has ever fielded.

As the voting day drew close, an electric atmosphere of mixed nervousness and determination began to grow. There were vacillations amongst member countries. Influence in all forms and intensity was being used by Pakistan. Everything in the rule book and even outside the rule book was thrown into the battle by Pakistan. There were some rumours of vacillation in the African group, but by and large countries had stated positions and stood their ground. It is significant that the Organisation of Islamic Conference (OIC) countries, who are usually painted as the villains of the piece in these matters, conspicuously kept a very low profile. Kashmir was discussed only once in the course of several meetings and at such meetings too consensus eluded them on holding another meeting on the Kashmir issue.

It was clear at an early stage that at least in the UN system, or as far as the Human Rights Commission is concerned, the OIC group preferred to follow 'enlightened self-interest'. An intrusive resolution against India would be the thin end of the wedge. They saw that as a bad precedent for intrusive diplomacy directed at their societies. Although they were reluctant to come out categorically to say that they would oppose the resolution, most members of the OIC made honest and strenuous efforts to persuade Pakistan not to press for a vote. Most of them shared with us in confidence that they were going to abstain.

From our point of concern, even if OIC abstentions did not help in numbers, this was a significant repudiation of the position Pakistan had relentlessly campaigned for. In the OIC meetings, Pakistan has constantly misused its comparative advantage due to our absence. It has had no self-consciousness about running a regular campaign against us across the world. In contrast we have directed our endeavours with dignity and restraint. Therefore, we consciously kept away from sending special envoys across the globe or raising the pitch to the level of the head of the government. The battle cry, and it would not be unfair to use that description, was sounded with the opening address of Pakistan's Prime Minister Benazir Bhutto. In a shrill pronouncement she made it clear to her own people, to us, and to the world that she was not going to withdraw. Pakistan was not going to accept a repeat of what happened at the UN General Assembly in 1993.

The pitch and tone we were to face were thus set from that instant. In a sense, we were confronted by a

formidable challenge. Benazir Bhutto is exceptionally articulate and blessed with a personality which the electronic media of the West takes to very enthusiastically. She had immediately, upon becoming Prime Minister for the second time, made a whirlwind tour of important capitals in Asia, Europe and North America. She left no diplomatic stone unturned. She came to Geneva to make history. Her team had come equipped, charged and determined to execute her grandiose plans.

We frankly did not go to Geneva with the intention of vanquishing Pakistan. We went about our brief in a serious business-like manner. We were not into the game of brinkmanship or one-upmanship. We were conscious that we were dealing with a very serious matter – Kashmir. There was no question of any compromise on Kashmir. We were mentally prepared for a vote although there was always an outside chance of an adverse result. That would have had an unwholesome fallout on Kashmir. On the other hand, if there was to be a withdrawal by Pakistan, we had to be certain that unmindful acquiescence of anything that was said or done in the process would not later be used against us. We made it clear to all our interlocutors that if a compromise to have "the matter postponed to the following year" was countenanced, we would have to object. Otherwise, as far as we were concerned, if Iran or another country and Pakistan had consultations or an exchange on the floor and Pakistan withdrew, we would have no problem.

Many countries felt uneasy about a vote. Iran and China had strong reasons to prevent a division. Iran took the intitiative of asking Pakistan to withdraw even as the

vote was announced. China added its voice, and 20 other countries followed suit. Interveners, including Mexico, very categorically said that this was a bilateral matter and ought to be settled bilaterally. And Pakistan withdrew. The busy lobbying and consulting of several weeks did not work but the open encounter on the floor settled the matter in minutes.

Of course, later Pakistan claimed that they understood that we would agree to a visit by ambassadors. But at the time of the vote, several ambassadors of OIC countries accredited to India were already in Srinagar. Indeed, there was no restriction on any ambassador, or, for that matter, on any person who wanted to visit Srinagar. We had gone further and invited ambassadors of Muslim countries, based in India, to go to Srinagar. Therefore, there was no scope for any conditionality about a visit by OIC ambassadors. Secondly, when Pakistan withdrew the motion, the President of the Commission said, by way of winding up, that Paksitan's matter would stand deferred to the following year. Prakash Shah was on his feet with a forceful objection. Then Iran came on and clarified that they had only said, "Pakistan will withdraw. Period. Nothing more." At that the gavel came down. Pakistan had withdrawn.

We are often asked whether the much talked about transparency was a tactical move to face Pakistan's onslaught. There is a call for transparency on transparency. A country virtually going through a revolution in the field of electronic media can hardly divorce itself, in its national outlook and thought processes, from 'openness' and 'transparency' rapidly becoming household words.

Therefore, over the past year, transparency had been naturally accepted as a buzzword of our Kashmir policy. Not too long ago our attitude was: "This is an internal matter. We do not want to talk to anybody about it." As a result, of course, access to foreigners, including the media, was relatively limited. This has changed dramatically. Almost a year before we went to Geneva, we had consciously changed our attitude. Imperceptibly for a lot of us, there had been a remarkable change in attitudes. Significantly, we switched to transparency at perhaps the worst possible time. We were not transparent on Kashmir when Kashmir was peaceful; when there was no organised terrorism, restlessness and trauma. We became transparent when the situation had deteriorated. This is an important indication of our commitment. We did not take to transparency because things were improving in Kashmir. We became transparent because the state of affairs was distressing.

This was really the source of strength that buttressed us at Geneva. The access that we gave to international organisations which have a record of objectivity had been received very well. The access that we gave to ambassadors, including the special invitation extended to the Troika Ambassadors of the European Union, had changed the rules of the game cynics played with India. It was not simply a tactical endeavour to defeat a resolution against us; it was part of an acceptance of a process of transparency, which has continued beyond Geneva.

Some months ago, a further group of ambassadors, i.e, seven from Muslim countries, visited Jammu and Kashmir. We describe Muslim countries as such for the simple

reason that, although in Geneva and in the UN system they are described as members of OIC, in India we do not have a regular dialogue or relationship with OIC. We have never used OIC in our public parlance. Their visit too was further confirmation of our belief in transparency as an attribute of good governance.

Our faith in transparency was rewarded by an extremely balanced and objective report produced by the Troika at Geneva. Before the delegation's departure for Geneva, I briefed the ambassadors of all the Human Rights Commission member countries. I said that we believed a report had been prepared but we did not know the conclusions of the report. Nevertheless, we were happy to have that report distributed to all European countries so that they could assess for themselves the ground situation in Kashmir. At that meeting the German Ambasador, H E Frank Elbe, spoke up and said that though they were not disclosing their conclusions, they were prepared to record that the visit was completely free and unfettered. During the trip they decided to let go of their escorts, took cabs and went to destinations that were known only to them and not to the government. They were free to talk to anybody they wanted. They spoke to people, gathered impressions and made independent conclusions in their reports.

Of course, the Troika report was not available to us by the time we left for Geneva. The first time we read a brief summary of conclusions of their report was when it was given to us by the Troika representatives and European Union representatives at Geneva itself. We have not, in fact, seen the full report to this day. However, the candid

conclusions of the report persuaded the European Union to take a promising position. Advisedly, they were the first group that I conferred with at Geneva. We have to understand that there are strong lobbies and strong domestic constituencies in many European countries on human rights who are described as human rights purists. They do not listen to anything if they believe that, on human rights, a particular situation does not meet their expectations. Despite the pressures of such domestic constituencies and, in some cases, strong personal predilections of members of their delegations including the eminent leaders, we were able to use the conclusions of the European Troika as being a significant advance in: (1) showing India's bona fides about Kashmir; (2) revealing that the actual situation in Kashmir not being anything like as described by Pakistan; and (3) vindicating our stand that whatever may be the reason for unrest in Kashmir it was exacerbated and constantly fuelled by the flow of lethal weapons, money and trained personnel from across the border. This was a formidable case, now established by irrefutable testimony. The European verdict was clear and it held fast enough to knock the bottom out of Pakistan's carefully prepared strategy.

Their strategy was to go in for a very hostile, belligerent resolution all through and then, in a surprise move, on the last day, produce a diluted version. The purists in Europe would then have difficulty in saying 'no'. The members of OIC would equally find it difficult to say 'no'. But the impression on the European delegation, based largely on the report made by the Troika Ambassadors, was deep, clear and lasting. Pakistan had failed to anticipate

this and lost their initiative. The European Union categorically rejected any move for amendments in our last formal meeting with them at their headquarters in Geneva. We were led by Shri Atal Behari Vajpayee. When we asked them about their attitude *vis-à-vis* a diluted resolution, their response was: There is no question of changing our mind about a resolution which we accept to be politically motivated, irrespective of the words used.

For countries like Canada and Australia, with whom we conducted detailed discussions, the candidness with which India was prepared to accept that there was a problem in Kashmir was a refreshingly constructive approach, putting our problems in the context of their own issues of linguistic minorities or displaced aborigines, and gave us a level playing field. The forthrightness with which India was prepared to analyse its own problem in Kashmir, the openness with which India was prepared to show and respond to documents, material and evidence of the ground situation in Kashmir, and the unambiguous steps that we had taken institutionally, such as setting up of the National Human Rights Commission, blunted the worst cynics. Unself-consciously, we asserted that any violations, despite our best efforts to ruthlessly prevent them, had to be brought to scrutiny for greater, more effective sanctions imposed through autonomous institutions like the National Human Rights Commission.

A considerable impact of the effectiveness of our courts of law has been felt. No country had a ready response to my enquiry: "Is there any other country in the world where the highest court in the land has intervened to direct the government to provide food and medical aid

to terrorists who are holed up in a place of worship?" There was no retort from the United States, the United Kingdom, France, Canada and Australia. This remarkable intervention during the siege at Hazratbal was the crowning glory of our judicial review system guaranteed by the Constitution, and the imaginative constitutional remedies developed by the Supreme Court in its public interest jurisdiction.

The United States kept a rather low profile. The head of the US delegation, Daniel Spiegel, an old associate of former Vice-President Hubert Humphrey, just wondered aloud whether we could somehow have a permanent channel of communication with the Human Rights Commission through the Centre of Human Rights. Nothing more by way of bulldozing, coercion or hard persuasion. I could not meet US Ambassador Geraldine Ferraro, but High Commissioner L.M. Singhvi, who had come up from the United Kingdom to help us, had two long discussions with her. Significantly, when she made her country's statement, she did not mention India. When the press asked her why she had omitted India, she said that in ten minutes she could only have picked on the bad cases of human rights violations!

We assessed that to be a meaningful signal from the United States. Admittedly, we remained cautious and watchful because we had no reason to believe that the United States might have a separate agenda for closer interest. But they did not and remained neutral. They did not try to influence anybody against India nor lent their tacit support to the resolution. It would only be fair to give credit where it is due, especially since the past year had

raised doubts about their attitude. Perhaps the visit of Deputy Secretary of State, Strobe Talbott, and prior to that the visit of Assistant Secretary of State Robin Raphel, and their description of these visits as indicative of a desire to turn a new leaf in the relations between India and the United States, found a manifestation at Geneva. This was perhaps a conscious corrective in preparation for the summit meeting between our Prime Minister with President Bill Clinton, slated for later in the summer.

Finally, since the matter did not go to vote, there was no tally of support. Privately, there was a great deal of support in terms of preference for our articulation of the position. There were many countries which felt self-conscious of being isolated in coming out to vote, although they supported us. An overwhelming number opted to abstain. Many countries felt that it was necessary to state that this was a bilateral matter and it ought to be settled bilaterally under the Simla Agreement (see Appendix 3). We had voluntary offers of commitments from several countries for an explanation of vote, either before or after voting. They were prepared to say that although they were not voting against the resolution and abstaining, this was because they believed it was embarrassing to be forced to vote between two member countries and because they were convinced that the matter had to be settled bilaterally.

So apart from our committed vote, we did have considerable support, in terms of people prepared to make statements. Of course, there could well have been explanations of vote by countries like Canada and the United States, which could possibly have been

unsatisfactory from our point of view. But that would have been largely for home audiences without any persuasive intent for other members.

Iran and China are important countries in our region and deserve a specific reference. Iran was in touch with us very soon after we arrived. In fact, we were keen to talk to Iran because the External Affairs Minister, Dinesh Singh, was scheduled to be in Teheran for the Joint Commission shortly after I arrived in Geneva. Understandably, we were anxious to judge what Iran was intending to do. We had to ensure that the External Affairs Minister was not embarrassed by going to Teheran if Iran had made, or intended to make, moves that were unacceptable to us. Our reading on the whole about Iran, both from what we were able to cull out from their delegation as well as from the briefing after the External Affairs Minister returned from Teheran, was that Iran had a vested interest in remaining close to India. But Iran has had a historical urge to play a pivotal role in motivating India and Pakistan to overcome their differences. This is a slippery slope we have scrupulously avoided over the years. Such a role we have not conceded to anybody, including our closest friends and most powerful countries in the world. Not even having conceded this to the United Nations historically we cannot possibly grant this role to any country, good intentions notwithstanding.

The other matter to keep in mind is that although Iran has a genuine desire to develop relations with India, they have a constraint of a powerful domestic lobby which is pro-Pakistan. This lobby is not easy to deal with either for us or for the liberals of Iran. Certainly it would not have

been easy for Iran to vote against a resolution moved by Pakistan and to be able to explain it back home. Therefore, to have expected them to vote for us was unrealistic. It would have taken them some effort to refuse to sponsor the resolution. We did, of course, hope and expect they would at least abstain at the vote. Without an abstention by them really no justification would have been left for expanding our bilateral cooperation, on the path opened by the very successful visit of our Prime Minister to Iran. Clearly, it was high on Iran's priority that the matter should not come to a vote.

China and India are trying to rediscover a relationship. Appropriately, China was discreet and low profile. China has its own problems in the UN. China has repeatedly had to face resolutions regarding Tibet. We have always supported China, but this time we suggested that in departure from the previous practice, we expect that now, consonant with a mature friendly relationship, there ought to be a certain level of reciprocity. We communicated this sentiment to China, although we had not categorically said that we would take reciprocity to its logical conclusion immediately. They were watching moves very closely and carefully. They put gentle pressure on Pakistan and became active once it became clear that Pakistan was running out of steam.

There is talk of an emerging triangle among India, China and Iran. That seems premature. We are three vastly different social, political and economic systems. There is some commonality of interest but we are still too far apart to be able to subscribe to the potential of a triangle. The sensible way to approach these relationships in Asia is in

terms of bilateral links: Iran-China, India-China, India-Iran. That is the best way of looking at it. That, indeed, gives us the best paradigm for growth of relationships in Asia.

It would be recalled that there was great excitement that, at first, Pakistan could not get a sponsor at all. When a lot of noise was made about that in India, virtually a clamour of celebration, Pakistan tried desperately to get a sponsor. They managed belatedly to get a sponsor in Saudi Arabia, with Bosnia virtually parroting Saudi Arabia. But Saudi Arabia was not represented by any important person, even of the level of secretary. Furthermore, Saudi Arabia did not take any noticeable step to persuade anybody. They simply had a junior official sign the sponsorship. Of course, the importance of their not signing the sponsorship register at the initial stage was not missed.

There was enormous disinformation in the last three or four days about the exact tally of votes. Many delegations were deliberately told by important sources that India was going to lose 7-3 or 5-2. These stories filtered back home to India causing understandable worry. Was our assessment, sitting in Geneva, somewhat sanguine or was the assessment that India was going to lose 7-3 or 5-2 correct? We agonised over this. We did our sums over and over again. We looked at the worst case scenarios repeatedly. We could not come up with even two votes for Pakistan, excluding their own. But we thought it was too good to be true. We kept pinching ourselves, and going back to our interlocutors for confirmation. We kept going back to countries that had been ambivalent. But we never

really fell below seven on our assessment of the number of votes we had, depending on the information available. Some countries were sending friendly signals but were unable to give a final commitment, not having received instruction from home. So we had South Block working overtime. That was the scenario on the day of the vote.

We had recommended strongly to New Delhi that the vote would be a definitive reply and that we should go ahead and push for the vote. We made it known that we wanted a vote. It seemed to work. Suddenly, the Iranian representative got up and said that Pakistan wanted a short adjournment. Pakistan interjected that they did not want an adjournment and that Iran wanted it. That exchange left everybody somewhat puzzled. However, an adjournment was granted. During that adjournment for an hour we were contacted by Iran after several days of evasive answers and elusiveness on their part. We realised that there was a lack of synchronisation between Iran and Pakistan. We were, of course, curious to know what the Iranians had in mind but showed a studied indifference. They informed us telephonically that they had a proposal to make to Pakistan. We immediately retorted that it was their proposal and we were not interested. We wanted the vote. They said: "You do not have to agree to our proposal, but if Pakistan agrees to the proposal and withdraws, why should you object?" We made it clear that we would not object to Pakistan withdrawing becaue we did not want a divide in the Human Rights Commission due to Pakistan's machinations. We did not want Pakistan humiliated either but we had to be sure that nothing happened that could later be used to undermine our case legally or morally.

When Pakistan finally withdrew the entire House broke into spontaneous applause. We acknowledged this applause with dignity and with a special thanks to those members who had gone out on a limb for us.

Pakistan may have done a serious analysis of the events that took place at Geneva. Pakistan completely misread the signals about India's new strategy. It underestimated the intrinsic strength of transparency and liberal government. Finally, it was completely thrown by our aggressive argument about definitions of nationhood. This was something that had surfaced even before we left for Geneva. We explicitly placed before the world the wholesome definition of the Pakistani nation. We established that India is a nation which gains its strength from people of different religions living together as one. Indeed, India is a country beyond religions. Pakistan is a nation that limits itself to religion. Pakistan wants to redefine the nationhood of another country. You can at best try to redefine your own nationhood but you cannot be allowed to covertly or overtly redefine the nationhood of another people.

This is an argument Pakistan did not anticipate. They did not anticipate the thesis that we aggressively put forward before the OIC that if their concern was for Muslims, they must hear the voice of 120 million Muslims of India. The 120 million Muslims of India were clamouring and saying: "Leave India alone. This is our home. Leave India alone."

And curiously, they were completely puzzled and confused by the fact that two political parties of India, so widely opposed to each other on important issues,

including the issue of religion in politics, namely, the Bharatiya Janata Party and the Congress, could be there together, speaking with the same voice and commitment. And to add to that was the irrepressible Dr Farooq Abdullah, whose family's contribution to the Kashmiri awakening is now legendary. This was the strength of India at its best. That perhaps is the best thing that we were able to achieve in Geneva.

Finally, a word on Kashmir. Everybody said it, and we know it, that next year we will have to be back in Geneva and our record on Kashmir will be on test again. We have to take advantage of Geneva because it has taken the wind out of the sails of those people who believed the watershed had been reached. Today there is growing disenchantment with violence. Even the young men who had taken up weapons appear to be in a mood to talk to the government. There is a sincere search for an imaginative solution to the Kashmir problem.

We have to grasp this opportunity. We are not the first country to face the problem of alienated youth. Every country has to face the problem of alienated youth at some stage. It happened in America, Europe, China, and elsewhere in the subcontinent. We have to reach out to the youth of Kashmir. There is a language of economic opportunity which everybody can speak and understand. These are gestures of feeling which can cut through the barriers of indifference. We have, as a nation, perhaps not done enough to reach out to Kashmir. When we talk about Geneva, or India, or Kashmir's youth, we inevitably talk in the absence of our Kashmiri brethren; at seminars and conferences. It is not because they do not want to come

but simply because we have not tried to have them amongst us. Something has gone wrong. Perhaps we missed the symptoms and took too much for granted. We have not done enough together with our Kashmiri countrymen. Perhaps the mountains or the distance, whatever be the reason, it has kept us apart.

This distance we must overcome.

8

The Road beyond Geneva

The significant point about the outcome of proceedings at the UNHRC meet at Geneva was an acceptance of some fundamental principles. Apart from the fact that not many countries can claim to have established an equitable constitutional scheme in as complex and varied a social context as ours, India is recognised as a contributor to high political values. The land of Mahatma Gandhi and Jawaharlal Nehru retains its mystic charm for people across the globe. But what is more, we were able to drive home the point that the problem we face in Kashmir today, if condoned by the world, could easily find clones elsewhere. If geographical and political boundaries are redrawn in our part of the

globe they will inevitably smudge other boundaries too. If religion is used as a carving knife to redesign politics, virtually the whole world will have to ready itself for the chisel. But most of all it became clear that human rights do not thrive in an intellectual and physical drought.

The task for us at Geneva was perhaps relatively easy, albeit daunting. Easy because it pales into insignificance before the task of putting Kashmir back on the road to peace. Guns and uniforms can protect the travellers on that road, but cannot persuade them to undertake the journey. We have to enkindle the quest for the destination of peace and hold out a firm promise that it will be waiting at the end of the road. Geneva gave us the chance to begin afresh.

Several things had to be done before setting off on the road. First, to understand what went wrong in the past. Something must have gone wrong. Why else would a peaceful population allow itself to be traumatised by armed militants in the name of an elusive and opaque goal of "*Azadi*"? Freedom for what and freedom from what? Understandably, like their countrymen elsewhere in India, Kashmiris too wish freedom from want, hunger, disease, and illiteracy. But perhaps more intensely than others they want it through effort and labour, not through charity. They want work and dignity of labour. Being denied work they blame on their leaders; being denied dignity they blame on leaders elsewhere in the country. What it really means is that we misread the signals. They want "*Azadi*" to share as equals not as dependents. They want schools, colleges, hospitals and factories. That is a struggle which we bow to. These were the dreams of Sheikh Abdullah and

Jawaharlal Nehru alike. This was inherited by Farooq Abdullah and Rajiv Gandhi alike. This dream India is determined to fulfil.

We are poised at a critical juncture. There is disenchantment and revulsion with the terrorist. There is a nervous hope of peace. The hope must blossom into confidence reposed in elected representatives. But on the other hand, the sagging morale of the terrorist will look for more gory drama. The final battle between the bullet and the ballot will now commence. Prime Minister P.V. Narasimha Rao has proclaimed the national resolve from the ramparts of the Red Fort. India wanted to look ahead to the year 2000. But Pakistan's constant refrain of the unfinished task of 1947 continues to be a drag on our soaring vision. So be it, we said. The unfinished agenda reads: "Vacate your aggression: give us back the part of Kashmir you have forcibly occupied."

We were only taking their argument to its logical conclusion. We were not speaking of war. But they have retaliated with threats of nuclear weapons, albeit made by a former Prime Minister. That, and the frenzy of the Government of Pakistan's efforts to fix the whole world on Kashmir, indicates a desperation. An unseemly haste to assemble OIC Foreign Ministers in Islamabad to virtually pre-empt any free discussion amongst them at the UN General Assembly and groups of Pakistani public figures globe-trotting with anti-Indian propaganda indicate their realisation that the initiative might be slipping from their hands. The recent peaceful removal of security bunkers at the Hazratbal shrine is yet another hole in their

deflating arguments. Like the proverbial hare, they were fast off the mark, but the tortoise is winning the race.

In a sense the task of putting Kashmir back on the road to recovery raises some fundamental questions of governance. The Indianness of India is a mysterious cement. It is more felt than seen and certainly more seen than articulated. "I am an Indian" is a statement of instinct and emotion, not of a cold logical formula. India is an inclusive entity, not an exclusive one. For centuries India has absorbed people from other parts of Asia and merged them into a new Indian personality. The powerful feeling of Indianness has not been undermined by innumerable languages, religions, and regional and cultural preferences. So strong has been the colour of this 'personality' that Indian diaspora across the globe from Mauritius to Guyana has not lost it several generations later. But development and growth, enhanced by the thrust of independence, have been a double edged sword. While they have strengthened the bonds of nationhood, they have also thrown up questions of distributive justice. This mismatch between expectation and realisation, concentration of growth centres in areas offering friendly terrain, political equations, etc., all contribute to complexities of apportionment.

Our founding fathers anticipated much of this and endeavoured to provide against any exacerbation of imbalances through constitutional safeguards. The most fascinating constitutional balancing was done by providing *fundamental rights and directive principles of State policy.* The former were strictly enforceable through judicial review whilst the latter were not. Yet through remarkable creative

jurisprudence both chapters of the Constitution have been read together to provide a harmony of interpretation of individual rights and social welfare of the entire society. Minority rights, women's rights and rights of scheduled castes and tribes as well as rights of educationally and socially backward citizens have been forcefully protected. In economic matters relating to development, such as ownership of property and means of production, equitable laws for accommodating and helping the 'dispossessed' of society have been extensively used to reconstruct a new social order. Reverse discrimination has been extensively used to overcome the prejudices and inequities of centuries. But the task is of such enormity that inevitably there are mistakes of underkill or overkill. We learn from those mistakes and move ahead.

Kashmir has been a case of too little leadership too far away from the source of sustenance. The history of post-Independence Kashmir has ample lessons for students of politics. Little misunderstandings can do a lot of damage. A little insensitivity can leave a deep scar on a political psyche. It may well be true that we may have involved ourselves too much where we should have left things to the local leadership. On the other hand, we have kept too aloof where we should have shown more interest. In other words, our balancing was not very good.

Some of the development problems which have plagued us in Kashmir are not unfamiliar in other parts of India where it is difficult to develop basic infrastructure. Mountainous regions do not lend themselves to roads and industry easily. Agriculture and allied sectors take a lot of effort to develop. Tourism is the mainstay of the economy

but requires massive investment. The immense potential of tourism is only just beginning to be grasped the world over. In India we have been able to explore only a microscopic part of the total potential and Kashmir is no exception. In developing countries, with innumerable competing demands on scarce resources, tourism does not get a high priority despite its potential. With liberalisation of developing economies and private sector taking a robust interest in investment in tourism, there can be greater possibilities.

The development problems in Kashmir are further complicated by the fact that it has the least developed regions in the less developed state. Ladakh, a barren plateau of immeasurable beauty, inhabited by a majority of Buddhists, can claim that it has not received the attention which the Valley gets. Similarly, Jammu though marginally better endowed in terms of development, can complain that many of the schemes of development are concentrated in the Valley. We have to think of the entire state of J&K and not artificially segregate it into separate regional entities. Indeed, Kashmiri leadership has itself in the past discouraged the notion of regional decentralisation.

In that context, if we return to the question of governance we get a sense of direction for the Kashmir of tomorrow. The popular perception of Kashmir, even in our country, is limited to the picture of beautiful mountains and sparkling brooks. A land of wonder and peace. Another picture of Kashmir is the marathon speech of Krishna Menon in the UN Security Council. Kashmir, heaven's abode on earth. Kashmir, the object of constant hostility of Pakistan towards us. What was lost as a result

was the real Kashmir with people, our countrymen and brethren. These people felt hunger and want like us. They were struck by disease like us. They had dreams like us. They had disappointments like us.

There are clearly two separate issues of governance involved – firstly, the legal structure of autonomy in decision making pertaining to local concerns. This is not an issue which ought to raise phantoms of horror for anybody. The entire Constitution of India is delicately structured to harmonise the Centre-State relations in the Federal structure. But it is a Federal structure of a *sui generis* nature very different from that of the United States of America. The debate which found reflection in the Sarkaria Commission Report on Centre-State relations and which continues in knowledgeable circles can easily accommodate the legal aspects of the Kashmir situation.

However, the second issue is perhaps more urgent and important. How does one get Kashmir back to normalcy? Punjab may have leads to offer but not beyond a point. Kashmir is somewhat unique. The catchment area for conventional leadership is somewhat narrow. Consequently, the risk is that much greater. Any positive-minded public figure is a target of the terrorists and since there are such few popular or effective leaders, a void is very easy to create. If they are very closely guarded they are of little use in the process of normalisation. The political process of normalisation requires two prerequisites. The external stimulus to the terrorist movement must be extinguished. Geneva 1994 killed the part which could have provided a morale booster. The cutting off of aid from Pakistan due to world pressure and more effective checks at the border

will stifle the core. Conventional public figures, as well as disillusioned militants, can then get out into the streets and give democracy a hand.

While steps are being taken to make the streets of Kashmir safe for the politicians and the voters alike, massive economic investment to bolster confidence of the populace will be necessary. We have taken this up on a war footing. The schools which were destroyed by militants are being rebuilt. Many new schools are being added. The bridges which had been blown up are being reconstructed. Financial institutions are being refurbished. Local cottage industry in carpet and furniture is being given incentives. The Railway Ministry has announced the commencement of work on the Jammu-Srinagar sector in two phases. We intend to buttress these steps with a major effort at getting young Kashmiri men and women into attractive jobs in public and private sectors. They are bright and qualified. They only require a little help to get to the board rooms of the corporate sector. We have to present these young people with the opportunity of choosing between the gun and the executive desk. More like them and younger still shall be offered seats at the best schools in the country. They will have a choice between education and despair. This entire effort will not be only of the government but of the people themselves. It will be made not to placate or appease but to recognise and reward just deserts.

We are determined to bring peace and prosperity back in Kashmir. We are determined to succeed because Kashmir is a test case for India's secularism and our belief that nations are not strung together by hollow slogans of

theology. This is not a battle we will win sans Kashmiris. Their own contributions through Sufism to the cementing philosophy of India are enormous. Yesterday, emperors bowed before the Sufis of India. Tomorrow, guns will bow to peace.

Appendix 1

Letter of Maharaja Hari Singh to Lord Mountbatten (26 October 1947)

My Dear Lord Mountbatten,

I have to inform your Excellency that a grave emergency has arisen in my State and request immediate assistance of your Government.

As your Excellency is aware the State of Jammu and Kashmir has not acceded to either the Dominion of India or to Pakistan. Geographically the State is contiguous to both the Dominions. It has vital economic and cultural links with both of them. Besides, my State has a common

boundary with the Soviet Republic and China. In their external relations the Dominions of India and Pakistan cannot ignore this fact. I wanted to take time to decide to which Dominion I should accede or whether it is not in the best interest of both the Dominions and of my State to stand independent – of course with friendly and cordial relations with both.

I, accordingly, approached the Dominions of India and Pakistan to enter into a standstill agreement with my State. The Pakistan Government accepted this arrangement. The Dominion of India desired further discussion with representatives of my Government. I could not arrange this in view of the developments indicated below. In fact, the Pakistan Government, under the standstill agreement, are operating Posts and Telegraphs system inside the State.

Though we have got a standstill agreement with the Pakistan Government, that Government permitted steady and increasing strangulation of supplies like food, salt and petrol to my State.

Afridis, soldiers in plain clothes, and desperadoes, with modern weapons, have been allowed to infiltrate into the State, at first in Poonch area, then in Sialkot and finally in mass in the area adjoining Hazara district on the Ramkote side. The result has been that the limited number of troops at the disposal of the State had to be dispersed and thus had to face the enemy at several points simultaneously, so that it has become difficult to stop the wanton destruction of life and property and looting. The Mahora power house which supplies the electric current to the whole of Srinagar has been burnt. The number of women who have been kidnapped and raped makes my

heart bleed. The wild forces let loose on the State are marching on with the aim of capturing Srinagar, the summer capital of my Government, as a first step to over-running the whole State.

The mass infiltration of tribesmen drawn from distant areas of North-West Frontier Province coming regularly in motor trucks using Mansehra-Muzaffarabad road and fully armed with up-to-date weapons cannot possibly be done without the knowledge of the Provincial Government of the North-West Frontier Province and the Government of Pakistan. In spite of repeated appeals made by my Government no attempt has been made to check these raiders or stop them from coming to my State. In fact, both the Pakistan Radio and Press have reported these occurrences. The Pakistan Radio even put out a story that a Provisional Government has been set up in Kashmir. The people of my State, both the Muslims and non-Muslims, generally have taken no part at all.

With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally, they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government. The other alternative is to leave my State and my people to freebooters. On this basis no civilised Government can exist or be maintained. This alternative I will never allow to happen so long as I am the ruler of the State and I have life to defend my country.

I may also inform your Excellency's Government that it is my intention at once to set up an interim Government and ask Shaikh Abdulla [Sheikh Abdullah] to carry the responsibilities in this emergency with my Prime Minister.

If my State has to be saved, immediate assistance must be available at Srinagar. Mr. [V.P.] Menon is fully aware of the gravity of the situation and he will explain to you, if further explanation is needed. In haste and with kindest regards.

Yours sincerely

(Hari Singh)

Appendix 2

Instrument of Accession of Jammu and Kashmir State

The following is the text of the actual Instrument of Accession executed by the Ruler of Jammu and Kashmir State on 26 October 1947.

Whereas, the Indian Independence Act, 1947, provides that as from the fifteenth day of August 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act, 1935, shall, with such omissions, additions, adaptations and modifications as the Governor-General may by order specify, be applicable to the Dominion of India;

And whereas the Government of India Act, 1935, as so adapted by the Governor-General provides that an Indian

State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof:

Now, therefore, I Shriman Indar Mahandar Rajrajeshwar Maharajadhiraj Shri Hari Singhji, Jammu Kashmir Naresh Tatha Tibbet adi Deshadhipathi, Ruler of JAMMU AND KASHMIR State, in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu and Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947 (which Act as so in force is hereafter referred to as "the Act").

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. I accept the matters specified in the Schedule hereto as the matters with respect to which the Dominion Legislature may make laws for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument.

6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purposes of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future constitution.

8. Nothing in this Instrument affects the continuance of my sovereignty in and over this state, or, save as provided

by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October, nineteen hundred and forty-seven.

(Sd.) Hari Singh
Maharajadhiraj of Jammu and
Kashmir State

Acceptance of Instrument of Accession of Jammu and Kashmir State by the Governor-General of India

I do hereby accept this Instrument of Accession.

Dated this twenty-seventh day of October, nineteen hundred and forty-seven.

(Sd.) Mountbatten of Burma
Governor-General of India

Schedule

The matters with respect to which the Dominion Legislature may make laws for this State:

A. *Defence*

1. The naval, military and air forces of the Dominion and any other armed forces raised or maintained by the Dominion; any armed forces, including forces raised or maintained by an acceding State, which are attached to, or operating with, any of the armed forces of the Dominion.

2. Naval, military and air force works, administration of cantonment areas.

3. Arms, fire-arms, ammunition.

4. Explosives.

B. *External Affairs*

1. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.

2. Admission into, and emigration and expulsion from, India including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India or subjects of any acceding State, pilgrimages to places beyond India.

3. Naturalisation.

C. *Communications*

1. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication.

2. Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fare, station and services terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administration of such railways as carriers of goods and passengers.

3. Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.

4. Port quarantine.

5. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.

6. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

7. Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.

8. Carriage of passengers and goods by sea or by air.

9. Extension of the powers and jurisdiction of members of the police force belonging to any unit to railway area outside that unit.

D. *Ancillary*

1. Elections to the Dominion Legislature, subject to the provisions of the Act and of any Order made thereunder.

2. Offences against laws with respect to any of the aforesaid matters.

3. Inquiries and statistics for the purposes of any of the aforesaid matters.

4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters but, except with the consent of the Ruler of the Acceding State, not so as to confer any jurisdiction or powers upon any courts other than ordinarily exercising jurisdiction in or in relation to that State.

Appendix 3

The Simla Agreement (1972)

(Agreement on Bilateral Relations between the Government of India and the Government of Pakistan)

1 The Government of India and the Government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of a friendly and harmonious relationship and the establishment of durable peace in the subcontinent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of their peoples.

In order to achieve this objective, the Government of India and the Government of Pakistan have agreed as

follows :

(i) That the principles and purposes of the Charter of the United Nations shall govern the relations between the two countries;

(ii) That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organisation, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations;

(iii) That the pre-requisite for reconciliation, good neighbourliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit;

(iv) That the basic issues and causes of conflict which have bedevilled the relations between the two countries for the last 25 years shall be resolved by peaceful means;

(v) That they shall always respect each other's national unity, territorial integrity, political independence and sovereign equality;

(vi) That in accordance with the Charter of the United Nations they will refrain from the threat or use of

force against the territorial integrity or political independence of each other.

2 Both Governments will take all steps within their power to prevent hostile propaganda directed against each other. Both countries will encourage the dissemination of such information as would promote the development of friendly relations between them.

3 In order progressively to restore and normalise relations between the two countries step by step, it was agreed that:

(i) Steps shall be taken to resume communications, postal, telegraphic, sea, land including border posts, and air links including overflights.
(ii) Appropriate steps shall be taken to promote travel facilities for the nationals of the other country.
(iii) Trade and co-operation in economic and other agreed fields will be resumed as far as possible.
(iv) Exchange in the fields of science and culture will be promoted.

In this connection delegations from the two countries will meet from time to time to work out the necessary details.

4 In order to initiate the process of the establishment of durable peace, both the Governments agree that:

(i) Indian and Pakistani forces shall be withdrawn to their side of the international border.

(ii) In Jammu and Kashmir, the line of control resulting from the cease-fire of December 17, 1971 shall be respected by both sides without prejudice to the recognised position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this line.

(iii) The withdrawals shall commence upon entry into force of this Agreement and shall be completed within a period of 30 days thereof.

5 This Agreement will be subject to ratification by both countries in accordance with their respective constitutional procedures, and will come into force with effect from the date on which the Instruments of Ratification are exchanged.

6 Both Governments agree that their respective Heads will meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of durable peace and normalisation of relations, including the questions of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations.

(Indira Gandhi)
Prime Minister
Republic of India

(Zulfikar Ali Bhutto)
President
Islamic Republic of Pakistan

Simla, the 2nd July, 1972

Index

Abbas, Shaykh Muhammed Yussaf, 73
Abdullah, Dr Farooq, 56, 103-04, 110, 129
  organising of opposition leaders' conclave by, 56
Abdullah, Sheikh Mohammed, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 81, 82, 128
  arrest of (1931), 46
  arrest of (1965), 55
  birth and early education of, 45
  references to independent Kashmir by, 47
  release of (1947), 51
  release of (1971), 55
Abidin, Zainul, 43
Afghanistan, 38, 44, 73, 74
  revolt against British in, 39
  ISI-trained militants in, 69
Afghans (in J & K), 68, 71, 72, 73
Afghan rulers, ousting by Sikhs in J & K of, 38
Ahimsa (non-violence), 2, 13
Ahmed, Dr Qazi Nissar, 62-63
  kidnapping and discovery of body of, 63
  life sketch of, 62
Air Force (Indian), killing of officers of, 103
Akbar the Great, 43
Al Barq, 76, 77, 78
Al Hajj, Muhammed Fazal, 72
Al Jehad, 26
Allah Tigers, 76
All India Services, extension to Kashmir of, 53
All India States' People's Conference, 46
Al Umar Mujahideen, 76
Amir, Major, 72
Amnesty International, 92
Ansari, Hamid, 110

Armed Forces (Special Powers) Act, 22
Armed Islamic Movement, 70
Army (Indian), 51, 55, 83-84, 88
  at outskirts of Lahore (1965), 54
  rushed to Srinagar (1947), 51
Articles 356 and 357, extension to Kahmir of, 54
Article 370, 52, 53, 56
Ashoka the Great, 40
Atlee, Clement, 36, 48
Aurangzeb, 43, 80
Azaadi, 128
Azzam, Shaykh Abd, 73

Bakshi, Shakeel, 100
Bakshi, Showkat, 103
Baltistan, 38
Bangladesh, 4, 55
Baramulla, 51
Beg, General Mirza Aslam, 68-69
Bhagwati, P.N., 5
Bharatiya Janata Party (BJP), 125
Bhat, Sarla, abduction, gang-raping and killing of, 63
Bhutto, Benazir, 70-71, 87, 111, 112
Bhutto, Zulfiqar Ali, 55, 68, 151
Bijbehara, 86, 94, 96
  firing at (by paramilitary officers), 86
  repercussions of, 86
Border Security Force (BSF), 83, 93-96
  new training syllabus for, 96-98
Bosnia, role in Geneva conference of, 122
Branoo, Sohan Lal, 64
  gang-raping and shooting of wife and daughter of, 64
Buddhism, 41
Buddhists, 132
Butt, Imtiaz Ahmed, 64-65
Butt, Mohammed Maqbool, 60
Butt, Shahin, 65
  holed up at Hazratbal shrine, 65

Cabinet Mission, 36-37
Central Reserve Police Force (CRPF), killing of personnel of, 101
Chandra, Satish, 110
Chauhan, Atta-ur Rehman, 65
China, 53, 112-13, 120-22
  attack on India by (1962), 53
  role in Geneva conference of, 112-13, 120-22
Chinar tree (symbolic of Kashmir), 43
Christopher, Warren, 91
Civil liberty groups, 18
Clinton, Bill, 119
Cold War, 7
Congress (I), 125
Congress, Indian National, 45-50
  Lahore session of, 45
Constituent Assembly, Kashmir, 52-53
Constitution (Indian), 5, 14, 15, 16, 17, 52, 53, 131, 133

and directive principles, 130
and fundamental rights, 15
guarantees of, 17
Constitution, for J & K, 52
Constitutional safeguards, 15
Criminal Procedure Code (Indian), 17
Cripps, Sir Stafford, 36
Curzon, Lord (Viceroy), 44

Damodara, 40
Dar, Aejaz Ahmed, 101
Dar, Ashiq Hussain (alias Mohammed Qasim Faktoo), 59
Delhi Agreement, 52
Democracy, 11, 14
Dhar, Pandit Birbal, 44
Doda, 78-79
Dogras/Dogra dynasty, 37-38

Elbe, Frank, 115
Election Commission of India, extension to Kashmir of, 53
European Union Troika ambassadors (visit to J & K of), 25-26, 114-16

Farooq, Moulvi Mohammed (Mirwaiz), 57, 59, 82
life sketch of, 59
shooting and killing of, 59
Farrukhabad (author's constituency), 9, 10
Fernandes, George, 59
Ferraro, Geraldine, 118
Founding fathers (of Indian Republic), 13, 130
Freedom movement (India), 3

Gandhi, Indira, 55, 151
Gandhi, Mahatma, 2, 13, 49, 127
Gandhi, Rajiv, 56, 129
Gandhian thought, 2
Ganjoo, B.K., killing of, 61
Ganjoo, N.K., killing of, 60-61
Geneva, 11, 13, 26, 108-25, 127, 128
conference at, 108-25
deliberations at, 13, 26
Golden Crescent, 67
Golden Temple, storming of, 84
Gonanda(s), 40, 41
Grover, V.K., 110
Gurdaspur, 50
Guru, Abdul Ahad, 59-60
kidnapping and killing of, 60

Habibullah, Wajahat, 85, 88
Hamid, Sheikh, 100, 101, 105
Hanifa Etikadi (sect), 59
Haqqani, Jallaluddin, 72
Harkat-ul Ansar, 64, 68
Harkat-ul-Jehad-e-Islami, 64, 77-78
Harkat-ul Mujahideen, 77
Harrison, Selig S., 69
Hartal (in Srinagar), 81
Hazratbal shrine, 23, 53, 80, 83-90, 95, 129
siege of, 83-90

Hinduism, 41
  Shaivite, 42, 43
Hindu refugees, 49
Hiroshima, 6
Hizbul Mujahideen, 60, 63, 65, 72, 76, 77, 78, 82, 100
Hobbes, Thomas, 34
Human rights, 1-10, 11, 12, 14-15, 25, 27, 33, 34
  activists, 18
  and political conflict, 2
  crushed by Pakistan-backed terrorists (in J&K), 31
  India's commitment to, 13, 27
  misuse for ideological purposes of, 1
  universal validity of, 27
Human Rights Commission, *see under* United Nations
Human Rights Working Group on Disappearances and Arbitrary Detention, 17
Hussain, Kaka, 105
Hussain, Mushahid, 69
Hussain, Sajda, raping and killing of, 64
Hyderabad, 50, 51

Ikhwan-ul Muslimeen, 71, 76
  members of (from four foreign countries), 71, 76
Imamuddin, Sheikh, 37
Imperialists, 2
Independence, 50
India(n)
  as birthplace of four religions, 15
  commitment to human rights, 25
  Independence Act, 36
  Penal Code, 18
  secular State, 16
Indianness, 130
Indo-China war, 54
Indo-Pak war (1965), 55
Indo-Pak war (1971), 55
Instrument of accession, 51, 141-47
International Commission of Jurists, visit to J&K of, 26
International Committee of Red Cross, visit to J&K of, 26
International opinion, 34
Inter-Services Intelligence (ISI) (Pakistan), 60, 66, 67, 69, 71, 73-74, 76, 77
  controlling and directing guerilla war by, 66
  role in Punjab of, 67
  strategy for J&K, 68
Iqbal, Sir Mohammed, 45
Iran, role in Geneva conference of, 112-13, 120-23
Irish Republican Army (IRA), 8
Islamic Students' League, 100
Iyer, Justice Krishna, 5

Jahangir, 43
Jamaat-e-Islami, 59, 65, 75
Jamaat-e-Tulba (Islami), 64-65

Jamiat-ul Mujahideen, 59
Jammu and Kashmir (*see also* Kashmir)
  action taken against Army and security forces in, 23
  as a conglomerate of religions, 29
  brief history of, 35-57
  exodus from, 21
  journalists' visit to, 25
  separate Constitution for, 30
  terrorist violence toll in, 21
  vis-à-vis POK, 29
Jammu and Kashmir Liberation Front (JKLF), 56-57, 59, 60, 82, 101, 103-05
Jehad, 70, 76, 77, 81
Jinnah, Mohammed Ali, 47, 49, 50, 51, 69
Judiciary (India), independent, 14
Junagadh, 50, 51

Ka'bah, storming by Saudi Arabian armed forces of, 84
Kalhana (poet-historian), 40
Kashmir (*see also* Jammu and Kashmir)
  increase in kidnappings in, 57
  Legislative Assembly, mode of elections to, 54
  militant organisations in, 75-76
  popular perception of, 132
  tourism in, 131-32
  violations of human rights in, 9
Kashmir movement, 46
Kashyap Muni, 39
Kaul, Asha, abduction, gang-raping and torture of, 63-64
Khalistan movement, 67
Khan, Ayub, 54
Khan, Dalcha (Zulkadar Khan), 41
Khan, Sajjad (alias Sajjad Afghani), 64
Kotah Rani, 42
Kull Jamaat Hurriyat Conference, 62, 77, 85

Ladakh, 38, 132
Lalataditya, 41
Latin America, 3
Lawrence, Major Henry, 37
Life and liberty, concept of, 6
Line of control, 52, 76
Lone, Abdul Ghani, 77

Mafia, organised, 8
Magisterial inquiry, mandatory, 18
Mahabharata, 40
Mahajan, Mehar Chand, 51
Mahmud of Ghazni, 41
Majid, Abdul, 81
Malik, Yasin (president of JKLF), 99-106
  arrest of, 105
  charged under TADA, 105
  kidnapping of Dr Rubaiya by, 99
  life sketch of, 99-100

release of, 105-06
training in Pakistan of, 99, 101
Markaz Dawat-ul Arshad (MDA), 71, 72, 77, 78
Menon, V.P., 48
Mihirgul (the Hun), 41
Minorities (religious, India), 15, 16, 19
Mir, Hilal Ahmed, 59
Mir, Javed Ahmed, 101
Mir, Shah (Sultan Shamsuddin), 41-42
Mishra, Ranganath, 5
Mohammed, Bakshi Ghulam, 52, 54, 81
Moi-e-muqqadas (strand of Prophet's hair) episode, 80-82
Mountbatten, Lord Louis, 48, 51, 137, 144
Mukhtaba-i-Khidmat, 72, 73
Muslim Conference, All Jammu and Kashmir, 45-46, 47, 48
as counterpart of Muslim League in Valley, 47
Muslim League, All India, 45, 46, 50
Muslim population (in India), 15
Muslim refugees, 49
Muslim United Front (MUF), 56, 62, 100

Nagas (in Kashmir), 39
Nagasaki, 6
Najibullah Government (Afghanistan), fall of, 76
Nalwa, Hari Singh, 38
Nasreen, Taslima, 4
National Conference (J&K), 46, 48, 50, 56, 82
National Human Rights Commission (India), 10, 19, 23, 91-98, 106, 107, 117
inquiry into Bijbehara firing by, 92-95
recommendations of, 95-96
setting up of, 92
National Security Act, 23
Nehru, Jawaharlal, 37, 45, 46, 47, 50, 52, 54
as PM of interim government (1946), 37
complex relation with Abdullah of, 46
Northern Areas (POK), 29, 30
North-West Frontier Province (NWFP), 49
Nuclear holocaust, 7

Operation Balakote, 76
Operation Bluestar, 84
Organisation of Islamic Conference (OIC), 110, 111, 113, 115, 116, 124, 129

Padmanabhan, Lieutenant-General, 85
Pakistan(i)
mission for 'liberation' of Kashmir, 69
blatant propaganda against India by, 31

call for self-determination in J&K by, 29
constant refrain of unfinished task of 1947, 129
Human Rights Commission, 29
globe trotting by public figures of, 129
nationhood based on religion, 29
posing as a champion of Kashmiri(s), 66
sponsorship of terrorism, 66
shedding crocodile tears by, 28
Pakistani tribesmen, invasion of J&K by, 35-36
Pakistan-occupied Kashmir (POK), 28, 30, 64, 71, 76, 101, 102
economy of, 28
literacy rate in, 28
Patel, Sardar Vallabhbhai, 50
Pathan tribesmen, 37
Pentagon, 91
Pir Panjal, 78
Plebiscite, 51
Poonch, 49
Popular Front for the Liberation of Palestine (PFLP), 72
Post-Cold War world, 1
Press, 14, 18
Punjab, 20, 67, 133
terrorist violence toll in, 20

Qadir, Abdul, 45
Quit Kashmir movement, 47

Radcliffe, Sir Cyril, 48
Rafiq, Mohammed, 102-03
Railway Ministry, commencement of work on Jammu-Srinagar sector by, 134
Raina, Babli, gang-raping and killing of, 63
Rajatarangini, 39
Ramadeva, 40
Ranjoor, Abdul Sattar, gunning down of, 62
Rann of Kutch, 55
Rao, P.V. Narasimha, 91, 110, 129
Raphel, Robin, 119
Rashid, Abdul, 81
Reading Room Party, 45
Rubaiya episode, 103-05
Rushdie, Salman, 4
Russia, Tsarist, 44

Sadiq, Ghulam Mohammed, 54
Sahadev, 41
Sands, Bobby (IRA activist), 8, 9
Saqr missiles, 73
Sarfaraz, Masood, 75
Saudi Arabia, role in Geneva conference of, 122
Sayeed, Dr Rubaiya, *see* Rubaiya episode
Sayeed, Mufti Mohammed, 56, 103-04
Scott, Sir Henry, 49
Shah, Bulbul (Sufi saint), 42
Shah, Mohammed Yusuf, 100
Shah, Mushtaq Ahmed, 77
Shah, Muzzafar Ahmed, 75

Shah, Prakash, 110
Shah, Rainchin (Sadruddin), 41-42
Shah, Yusuf, 43
Shamsuddin, Khwaja, 53
Shastri, Lal Bahadur, 54
Sikander, Sultan, 43
Sikhs (in J&K)), 37
Simla Agreement, 31, 55, 148-51
Singh, Dinesh, 120
Singh, Dr Manmohan, 11, 12, 13, 19
Singh, Gulab, 37, 38, 39
Singh, Hari, 37, 44, 47, 48, 49, 50, 51, 137-40, 141-47
Singh, Maharaja Ranjit, 38, 39, 44
Singh, Pratab, 44
Singh, Ranbir, 44
Singh, Zorawar, 38
Singhvi, L.M., 118
Skardu, 38
Society, weaker sections of, 15, 19
Sohal, Ghulam Rasool Dar, 60
Sohani (Dr), killing of, 60
Sofi, Manzoor Ahmed (alias Munna Shalla), 102-03
Special Rapporteur on Torture, 17
Spiegel, Daniel, 118
Spirit of openness and transparency, 25
Srinagar, founding of (by Ashoka the Great),40
Standstill Agreement, 50
States Department, 37
Supreme Court(of India), 5, 18, 22, 53, 89-90, 105-07
  and public interest litigation, 18
  and Sunil Batra case, 18
  role in Hazratbal siege of, 89-90
Tala Party, 100
Talbott, Strobe, 119
Taploo, Tika Lal, gunning down of, 102
Tashkent, 54
Tehriq-e-Jehad Islami, 75
Terrorism, 2, 7, 20, 24, 33, 34
  India's struggle against, 33, 34
  sponsored from abroad, 20
  turning to soft targets, 7
Terrorist(s)
  hit list of, 58-79
  trained by Pakistan, 64-66
Terrorist and Disruptive Activities (Prevention) Act (TADA), 22, 107
Thatcher, Margaret, 9
Tibet, 38, 41
Tikoo, Girja, abduction, gang-raping and killing of, 63
Treaty of Amritsar, 37, 39
Turabi, Abdul Rashid, 75

United Nations Commission for India and Pakistan (UNCIP), 52
United Nations Commission on Human Rights, 11, 108-25, 127

United Nations (Organisation), 12, 28, 30, 32
Charter of, 26-27, 36
General Assembly, 31, 111, 129
Security Council, 35, 36, 51, 132
United States of America, 6, 54, 118-19
military arrangements with Pakistan of, 54
role in Geneva conference of, 118-19
Universal Declaration of Human Rights, 14
Urwin, 92
US State Department, 86
statement by functionary of, 86
US Task Force on Terrorism and Unconventional Warfare, 68, 69, 70-71, 73
documentation of extent of Pakistani involvement in J&K, 68

Vajpayee, Atal Behari, 11, 16, 109, 117
Vakil, Mohammed Shaban, shooting of, 61-62
Vasudev kutumbakkam (universal family), 3
Vienna Conference, 20
Vienna Declaration, 26, 72
Vienna document, 12
Vietnam, war in, 6

Waco (Texas) episode *vis-à-vis* Hazratbal siege, 91
Wanchoo, H.N., kidnapping of, 58
Wani, Ashfaq Majid, 100
Weapons of mass destruction, 7
Weapons, used in J&K, 74
World Conference on Human Rights (Vienna), 12, 32, 33
World War, Second, 6, 36, 49

Yudhistra, 41
Yousaf, Mohammed, 66

Zaki, Moulvi, 71
Zargar, Javid, 103

BEYOND TERRORISM

NEW HOPE FOR KASHMIR

The problem we face in Kashmir today; if condoned by the world, could easily find clones elsewhere. If geographical and political boundaries are redrawn in our part of the globe they will inevitably smudge other boundaries too. If religion is used as a carving knife to redesign politics, virtually the whole world will have to ready itself for the chisel . . .

We are determined to bring peace and prosperity back in Kashmir. We are determined to succeed because Kashmir is a test case for India's secularism and our belief that nations are not strung together by hollow slogans of theology. This is not a battle we will win sans Kashmiris. Their own contributions through Sufism to the cementing philosophy of India is enormous. Yesterday, emperors bowed before the Sufis of India. Tomorrow, guns will bow to peace.

Cover Design & Photo : Dushyant Parasher
Inset of Cover Photo : Kamal Sahai

ISBN 81-7476-019-9